

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Dr. Stanley Friedler, Gail Friedler, Richard Friedler,
Dr. Milan Wister, Amy Wister, Dr. Philip Konits,
Cindy Konits, and Gordon Boone

Case Number: 19-03232

vs.

Respondents

Stifel, Nicolaus & Co., Inc. and
Coleman Joseph Devlin

Hearing Site: Baltimore, Maryland

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customers vs. Member and Associated Person

This case was decided by an all-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimants Dr. Stanley Friedler, Gail Friedler, Richard Friedler, Dr. Milan Wister, Amy Wister, Dr. Philip Konits, Cindy Konits, and Gordon Boone (collectively “Claimants”): Daniel Miller, Esq., The Law Offices of Daniel J. Miller, LLC, Baltimore, Maryland.

For Respondents Stifel, Nicolaus & Co., Inc. (“Stifel”) and Coleman Joseph Devlin (“Devlin”) collectively, “Respondents”: Edwin A. Zipf, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: October 29, 2019.

Dr. Stanley Friedler, Gail Friedler, and Richard Friedler signed the Submission Agreement: November 16, 2017.

Dr. Milan Wister and Amy Wister signed the Submission Agreement: November 7, 2017.

Dr. Philip Konits and Cindy Konits signed the Submission Agreement: November 9, 2017.

Gordon Boone signed the Submission Agreement: November 7, 2017.

Statement of Answer filed on or about: December 24, 2019.

Stifel signed the Submission Agreement: December 18, 2019.

Devlin signed the Submission Agreement: December 24, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: breach of contract, breach of duty-selling away, professional negligence, breach of fiduciary duty, violation of Maryland Securities Act, violation of the Securities Exchange Act of 1934 and SEC Rule 10b-5, and negligent supervision. The causes of action related to Claimants' allegation that Devlin took unauthorized discretion in Claimants' accounts; invested in unsuitable securities, including REMICS bonds; magnified Claimants' risk by engaging in options trading; failed to diversify Claimants' holdings; and misrepresented risk causing Claimants to sustain losses.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages and consequential damages in the approximate amount of \$11,500,000.00, plus the costs of arbitration, and attorneys' fees.

In the Statement of Answer, Respondents requested that the Panel deny each of Claimants' claims, dismiss the Statement of Claim with prejudice, and assess all costs of the proceeding against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 2,250.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Stifel is assessed the following:

Member Surcharge = \$ 4,025.00
Member Process Fee = \$ 7,000.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with the Panel @ \$1,500.00/session = \$ 6,000.00
Pre-Hearing Conferences: March 4, 2020 1 session
August 11, 2020 1 session
September 14, 2020 1 session
February 1, 2021 1 session

Twenty-two (22) hearing sessions @ \$1,500.00/session = \$ 33,000.00
Hearings: September 8, 2021 2 sessions
September 9, 2021 2 sessions
September 10, 2021 2 sessions
September 20, 2021 2 sessions
September 21, 2021 2 sessions
September 22, 2021 2 sessions
September 23, 2021 2 sessions
September 24, 2021 2 sessions
November 16, 2021 2 sessions
November 17, 2021 2 sessions
December 17, 2021 2 sessions

Total Hearing Session Fees = \$ 39,000.00

The Panel has assessed \$19,500.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$19,500.00 of the hearing session fees jointly and severally to Respondents.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Steven Irving Platt	-	Public Arbitrator, Presiding Chairperson
Betty Ann Stemley	-	Public Arbitrator
Beata Gruszecka	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Steven Irving Platt

Steven Irving Platt
Public Arbitrator, Presiding Chairperson

01/13/2022

Signature Date

Betty Ann Stemley

Betty Ann Stemley
Public Arbitrator

01/12/2022

Signature Date

Beata Gruszecka

Beata Gruszecka
Public Arbitrator

01/12/2022

Signature Date

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January 13, 2022

Date of Service (For FINRA Dispute Resolution Services use only)