

**Stipulated Award  
FINRA Dispute Resolution Services**

---

In the Matter of the Arbitration Between:

Claimant  
Brian Dornellas

Case Number: 19-03307

vs.

Respondents  
Lincoln Financial Advisors Corporation  
George Anthony Schmidt, Jr.  
Eric Stephen Schmidt

Hearing Site: Las Vegas, Nevada

---

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: Customer vs. Member and Associated Persons

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Brian Dornellas (“Claimant”): David Liebrader, Esq., The Law Offices of David Liebrader, CHTD., Las Vegas, Nevada.

For Respondent Lincoln Financial Advisors Corporation (“Lincoln Financial”): Paula D. Shaffner, Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, Pennsylvania.

For Respondent George Anthony Schmidt, Jr. (“George Schmidt”): Robert S. Larsen, Esq., Gordon Rees Scully Mansukhani, LLP, Las Vegas, Nevada.

For Respondent Eric Stephen Schmidt (“Eric Schmidt”): Sheri Thome, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker LLP, Las Vegas, Nevada.

Hereinafter, Lincoln Financial, George Schmidt, and Eric Schmidt are collectively referred to as “Respondents”.

### **CASE INFORMATION**

Statement of Claim filed on or about: November 5, 2019.  
Claimant signed the Submission Agreement: November 5, 2019.

Statement of Answer and Crossclaim filed by Lincoln Financial on or about: February 10, 2020.  
Statement of Answer filed by George Schmidt on or about: February 10, 2020.  
Amended Answer to the Statement of Claim filed by George Schmidt on or about; May 18, 2020.  
Statement of Answer to Lincoln Financial's Crossclaim filed by George Schmidt on or about: February 21, 2020.  
Statement of Answer filed by Eric Schmidt on or about: February 12, 2020.  
Lincoln Financial signed the Submission Agreement: February 11, 2020.  
George Schmidt signed the Submission Agreement: February 11, 2020.  
Eric Schmidt signed the Submission Agreement: February 12, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; negligence; violation of Nevada securities laws; violation of N.R.S. § 598.092 et seq., deceptive trade practices; and civil theft (conversion). The causes of action relate to investments in a Mass Mutual Odyssey fixed annuity and a Brighthouse Financial Portfolio Architect variable annuity.

In its Statement of Answer, Lincoln Financial denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In his Statements of Answer and Amended Answer to the Statement of Claim, George Schmidt denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In his Statements of Answer, Eric Schmidt denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Crossclaim, Lincoln Financial demanded contribution and indemnification from George Schmidt if Lincoln Financial is found liable.

In his Statement of Answer to Lincoln Financial's Crossclaim, George Schmidt denied the allegations made in the Crossclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Compensatory damages in an amount not less than \$1,191,674.00;
2. Punitive and exemplary damages in an amount to be determined by the Panel;
3. Pre-award and post-award interest at the maximum rate allowed by law from the date of the original investments;
4. Costs of arbitration and expenses including reasonable attorneys' fees, expert witness fees and any other costs deemed reasonable; and
5. A Panel of three arbitrators be appointed to hear this matter in Las Vegas, Nevada.

In the Statement of Answer and Crossclaim, Lincoln Financial requested:

1. Claimant's claims be denied in their entirety;
2. Entry of an award in its favor and against George Schmidt to the full extent of any liability to Claimant;
3. Costs;
4. Attorneys' fees; and
5. Such other relief as the Panel deems appropriate.

In his Statement of Answer, Amended Answer to the Statement of Claim, and Statement of Answer to Lincoln Financial's Crossclaim, George Schmidt did not set forth a specific relief request.

In his Statement of Answer, Eric Schmidt requested:

1. Dismissal of all claims in the Statement of Claim in their entirety;
2. Attorneys' fees and costs; and
3. Expungement of the complaint from Eric Schmidt's Central Registration Depository ("CRD") records.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On August 20, 2020, Lincoln Financial filed a Motion to Dismiss Claimant's Statement of Claim pursuant to Rule 12504(a) of the Code of Arbitration Procedure ("Code"). On August 24, 2020, George Schmidt filed his joinder to Lincoln Financial's Motion to Dismiss. On August 25, 2020, Eric Schmidt filed his joinder to Lincoln Financial's Motion to Dismiss. On October 3, 2020, Claimant filed a response opposing Lincoln Financial's Motion to Dismiss. On October 19, 2020, Eric Schmidt filed his reply in support of his joinder to the Motion to Dismiss. That same day, Lincoln Financial filed its reply in support of the Motion to Dismiss. On November 18, 2020, the Panel heard oral arguments on the Motion to Dismiss. That same day, the Panel issued an Order denying the Motion to Dismiss.

On October 29, 2020, Lincoln Financial filed a Motion for Sanctions against Claimant and George Schmidt. On November 9, 2020, Claimant filed his opposition. On November 16, 2020, Lincoln Financial filed its reply in support of its motion. By Order dated November 18, 2020, the Panel determined that “ruling on the Motion for Sanctions is tolled until the completion of the evidentiary hearing”.

On April 3, 2021, Claimant filed a notice of voluntary dismissal with prejudice of his claims with Lincoln Financial and Eric Schmidt.

On July 12, 2021, Claimant and George Schmidt filed a Motion for Entry of a Stipulated Award. On September 2, 2021, the Panel granted the motion.

On July 21, 2021, Eric Schmidt filed a notice of withdrawal of his expungement request.

On August 12, 2021, Lincoln Financial filed a notice dismissing its Crossclaim against George Schmidt.

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

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. George Schmidt is liable for and shall pay to Claimant the sum of \$525,000.00 in compensatory damages.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys’ fees, are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees\* for each claim:

Initial Claim Filing Fee	= \$	2,000.00
Cross Claim Filing Fee	= \$	3,400.00

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

FINRA Dispute Resolution Services previously deferred Claimant's filing fee of \$2,000.00. Upon conclusion of the matter, the Panel determined to waive the fee.

**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, Lincoln Financial is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

Two (2) decisions on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	400.00
---	------	--------

Lincoln Financial submitted two (2) discovery-related motions

---

Total Discovery-Related Motion Fees	= \$	400.00
-------------------------------------	------	--------

The Panel has assessed the total discovery-related motion fees to Lincoln Financial.

**Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one Arbitrator @ \$200.00	= \$	200.00
--	------	--------

---

Total Contested Motion for Issuance of Subpoena Fees	= \$	200.00
--	------	--------

The Panel has assessed the total contested motion for issuance of subpoena fees to Lincoln Financial.

**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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	5,600.00
Pre-Hearing Conferences: March 3, 2020	1 session	
November 18, 2020	1 session	
December 29, 2020	1 session	
July 30, 2021	1 session	
<hr/>		
Total Hearing Session Fees	= \$	5,600.00

The Panel has assessed \$1,400.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,800.00 of the hearing session fees jointly and severally to Respondents.

The Panel has waived \$1,400.00 of the hearing session fees.

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

**ARBITRATION PANEL**

Robert E. Jenks	-	Public Arbitrator, Presiding Chairperson
Barbara M. Zak	-	Public Arbitrator
Mary M. O'Neil	-	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**

***Robert E. Jenks***

\_\_\_\_\_  
Robert E. Jenks  
Public Arbitrator, Presiding Chairperson

09/30/2021

\_\_\_\_\_  
Signature Date

***Barbara M. Zak***

\_\_\_\_\_  
Barbara M. Zak  
Public Arbitrator

09/30/2021

\_\_\_\_\_  
Signature Date

***Mary M. O'Neil***

\_\_\_\_\_  
Mary M. O'Neil  
Public Arbitrator

09/30/2021

\_\_\_\_\_  
Signature Date

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.

September 30, 2021

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