

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Mihaela Manoli
Cain Manoli

Case Number: 19-03423

vs.

Respondent

Wells Fargo Clearing Services, LLC

Hearing Site: Los Angeles, California

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

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Mihaela Manoli, and Cain Manoli (“Claimants”): D. Daxton White, Esq., The White Law Group, LLC, Chicago, Illinois.

For Respondent Wells Fargo Clearing Services, LLC (“Respondent”): Judy Louie, Esq., Wells Fargo Law Department, Los Angeles, California.

*FINRA recorded the appearance of Claimants’ counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimants may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimants’ counsel appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: November 15, 2019.

Claimants signed the Submission Agreement: November 6, 2019.

Statement of Answer filed by Respondent on or about: January 13, 2020.

Respondent signed the Submission Agreement: January 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: violation of common law fraud; breach of fiduciary duty, negligent failure to supervise; and negligence. The causes of action relate to an investment placed in a non-traded real estate investment trust.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Compensatory damages in an amount not less than \$100,000.01 to \$500,000.00 as proven at the final hearing;
2. Interests, costs, expenses, and disbursements, including expert witness fees; and
3. Other relief the Arbitration Panel deems just and proper.

In the Statement of Answer, Respondent requested:

1. Denial of Claimants' claims in their entirety; and
2. Expungement of this matter from Unnamed Party, Geoffrey Ralph Mizrahi'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 December 8, 2020, Claimants filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On December 22, 2020, Respondent filed a motion for expungement on behalf of Geoffrey Ralph Mizrahi, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on March 30, 2021, so the parties could present oral argument and evidence on Geoffrey Ralph Mizrahi's request for expungement.

Claimants did not participate in the expungement hearing.

The Panel reviewed Mr. Mizrahi's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Geoffrey Ralph Mizrahi did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the Statement of Claim; Geoffrey Ralph Mizrahi's BrokerCheck® Report; exhibits; and the settlement agreement.

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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2056085) from registration records maintained by the CRD for Unnamed Party Geoffrey Ralph Mizrahi (CRD Number 2280037) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Geoffrey Ralph Mizrahi must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The Panel has made the above Rule 2080 finding based on the following reasons:

Claimants claimed that Geoffrey Ralph Mizrahi recommended an investment in Dividend Capital, a real estate investment trust, that was unsuitable to their desires or level of sophistication. In reviewing the application forms and disclosures filed by Claimants when they opened the Wells Fargo investment account, the Panel reached the conclusion that as professional real estate investors, Claimants fully understood the inherent risks in such an investment and kept it for many years.

Thus, the Panel sees the Customers' claim, allegation, or information is factually impossible or clearly erroneous, and recommends the expungement of Occurrence Number 2056085 from Geoffrey Ralph Mizrahi's CRD records.

2. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee = \$ 1,425.00

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

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

Two (2) pre-hearing sessions with Panel @ \$1,125.00/session = \$ 2,250.00
Pre-Hearing Conferences: March 3, 2020 1 session
October 5, 2020 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: March 30, 2021 1 session

Total Hearing Session Fees = \$ 3,375.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimants.

The Panel has assessed \$2,250.00 of the hearing session fee to Respondent.

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

ARBITRATION PANEL

Eric Gad Forster	-	Public Arbitrator, Presiding Chairperson
Stephen Mack, III	-	Public Arbitrator
Elijah Paul Rukidi-Mpuuga	-	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

Eric Gad Forster

Eric Gad Forster
Public Arbitrator, Presiding Chairperson

04/09/2021

Signature Date

Stephen Mack, III

Stephen Mack, III
Public Arbitrator

04/12/2021

Signature Date

Elijah Paul Rukidi-Mpuuga

Elijah Paul Rukidi-Mpuuga
Public Arbitrator

04/12/2021

Signature Date

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April 12, 2021

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