

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Estes Rigsbee

Case Number: 19-03517

vs.

Respondents
Titus Rockefeller, LLC
Andre Vincent LaBarbera
Richard Christopher Stoyeck

Hearing Site: Raleigh, North Carolina

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 administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Estes Rigsbee (“Claimant”): Bradley D. Schnur, Esq., Law Office of Bradley D. Schnur, Esq., P.C., Jericho, New York.

For Respondent Titus Rockefeller, LLC (“Titus Rockefeller”): Richard Christopher Stoyeck, Wilton, Connecticut.

Respondent Andre Vincent LaBarbera (“LaBarbera”) appeared pro se.

Respondent Richard Christopher Stoyeck (“Stoyeck”) appeared pro se.

Hereinafter, Titus Rockefeller, LaBarbera, and Stoyeck will collectively be referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: November 11, 2019.
Claimant signed the Submission Agreement: November 18, 2019.

Statement of Answer filed by Titus Rockefeller and Stoyeck on or about: March 30, 2020.
Titus Rockefeller did not sign the Submission Agreement.
Stoyeck did not sign the Submission Agreement.

Statement of Answer filed by LaBarbera on or about: March 30, 2020.
LaBarbera did not sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: unsuitability and overconcentration; churning, excessive trading, and commission abuse; failure to supervise; breach of fiduciary duty; negligence; fraudulent misrepresentation; breach of contract; respondeat superior; and lost opportunity damages. The causes of action relate to Under Armour, Inc. and Best Buy Co., Inc. stock, as well as other various unspecified securities.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in an amount of no less than \$23,793.69 plus North Carolina statutory interest thereon from December 5, 2013 representing trading losses and disgorgement of commissions and fees earned with respect to the accounts at issue;
2. Punitive/lost opportunity damages in the amount of \$20,000.00;
3. An affirmative finding of fraud against all Respondents;
4. Costs in an amount of no less than \$6,000.00;
5. Forum and hearing fees; and
6. Such other, further and different relief as may be deemed just and equitable under the circumstances.

In the Statement of Answer, Titus Rockefeller and Stoyeck requested \$50,000.00 for legal costs and processing fees.

In the Statement of Answer, LaBarbera requested:

1. Claimant be held responsible for all related fees in bringing this action and all legal fees;
2. All claims be denied in their entirety; and
3. All forum and filing fees associate with this action be charged against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondents did not file properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, appeared, and testified at the hearing, are bound by the determination of the Arbitrator on all issues submitted.

On October 14, 2020, Respondents filed a Motion to Dismiss. On October 23, 2020, Claimant filed an opposition to the motion. On November 25, 2020, the Arbitrator heard oral arguments on the motion and denied the motion.

On January 8, 2021, Respondents filed a second Motion to Dismiss. On January 25, 2021, Claimant filed an opposition to the motion. On February 11, 2021, the Arbitrator denied the motion.

AWARD

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

1. Claimant's claims are denied in their entirety.
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 assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$	600.00
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**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 Titus Rockefeller is assessed the following:

Member Surcharge	= \$	750.00
Member Process Fee	= \$	1,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

September 2, 2020, postponement requested by Respondents	= \$	450.00
January 12, 2021, postponement requested by Parties	= \$	Waived
April 16, 2021, postponement requested by Respondents	= \$	450.00

Total Postponement Fees	= \$	900.00
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The Arbitrator has assessed \$450.00 of the postponement fees to Claimant.

The Arbitrator has assessed \$450.00 of the postponement fees jointly and severally to Respondents.

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 (1) Arbitrator @ \$200.00	= \$	200.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$	200.00
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The Arbitrator has assessed the total contested motion for issuance of subpoena fees to Claimant.

Hearing Session Fees and Assessments

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

Four (4) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$	1,800.00
Pre-Hearing Conferences: May 5, 2020	1 session	
September 2, 2020	1 session	
November 25, 2020	1 session	
May 6, 2021	1 session	

Two (2) hearing sessions @ \$450.00/session	= \$	900.00
Hearing: August 10, 2021	2 sessions	

Total Hearing Session Fees	= \$	2,700.00
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The Arbitrator has assessed \$1,575.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$1,125.00 of the hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

Robert G. Bannon

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Sole 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.

Arbitrator's Signature

Robert G. Bannon

Robert G. Bannon
Sole Public Arbitrator

09/02/2021

Signature Date

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September 02, 2021

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