

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Remo Benvenuti, Individually, and
Charles Benvenuti and Leonard Benvenuti,
Trustees of the Remo Benvenuti Irrevocable
Trust Dated June 29, 2007

Case Number: 20-00677

vs.

Respondents

CCO Investment Services Corp.
Charter One Investment Services.
Citizens Securities, Inc., and
Jason Murphy

Hearing Site: Detroit, Michigan

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. Members and Associated Person

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimants Remo Benvenuti, Individually, and Charles Benvenuti and Leonard Benvenuti, Trustees of the Remo Benvenuti Irrevocable Trust Dated June 29, 2007 (“Claimants”): Joseph P. Ciaramitaro, Jr., Esq., Joseph P. Ciaramitaro, P.C., Clinton Township, Michigan.

For Respondents CCO Investment Services Corp. (“CCO”), Charter One Investment Services (“Charter One”), and Citizens Securities, Inc. (“Citizens”), hereinafter collectively referred to as “Corporate Respondents”: Krista L. Elsasser, Esq., Bressler Amery & Ross, P.C., Miami, Florida and Sean J. Coughlin, Esq., Bressler Amery & Ross, P.C., New York, New York.

For Respondent Jason Murphy (“Murphy”): Eric A. Michaels, Esq. and Irit Walters, Esq., Saretsky Hart Michaels + Gould, PC, Birmingham, Michigan.

*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: February 28, 2020.
Remo Benvenuti signed the Submission Agreement: March 4, 2020.
Charles Benvenuti and Leonard Benvenuti, Trustees of the Remo Benvenuti Irrevocable Trust Dated June 29, 2007 signed the Submission Agreement: February 14, 2020.

Statement of Answer filed by Corporate Respondents on or about: April 30, 2020.
CCO signed the Submission Agreement: April 27, 2020.
Charter One and Citizens signed the Submission Agreements: May 1, 2020.

Statement of Answer filed by Murphy on or about: April 23, 2020.
Murphy signed the Submission Agreement: April 23, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: misrepresentations, violations of MCL 500.2018 and 500.2005, failure to properly train and supervise, negligent breach of duty inducing a non-suitable sale of insurance, and omission of fact. The causes of action related to the recommendation and purchase of a Stag Protector II variable universal life insurance policy which Claimants alleged to be an unsuitable investment.

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

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested an award in excess of \$444,000.00 jointly and severally against Corporate Respondents and Murphy, together with costs, interest and attorneys' fees.

In the Statement of Answer, Corporate Respondents requested that the Statement of Claim be denied and dismissed with prejudice.

In the Statement of Answer, Murphy requested that the Statement of Claim be denied and dismissed with prejudice and that all references to this matter be expunged from his registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 3, 2021, Corporate Respondents filed a Motion to Exclude Premiums Outside of Eligibility Period Pursuant to FINRA Rule 12206(a) ("Motion to Exclude"). On March 3, 2021,

Claimants filed a Response to the Motion to Exclude. On March 3, 2021, Corporate Respondents filed a Reply in Further Support of the Motion to Exclude.

On February 3, 2021, Murphy filed a Partial Motion to Dismiss/Exclude Claims Pursuant to FINRA Rule 12206 ("Motion to Dismiss"). On March 3, Murphy filed a Reply in Support of the Motion to Dismiss.

On March 10, 2021, Corporate Respondents requested that the Panel refrain from considering the Motion to Exclude and Motion to Dismiss pending settlement.

On April 14, 2021, Claimants filed a Notice of Settlement and Impending Dismissal. On April 30, 2021, Claimants filed a notice of voluntary dismissal with prejudice of Corporate Respondents and of voluntary dismissal without prejudice of Murphy. On May 12, 2021, Claimants filed a notice of voluntary dismissal with prejudice of Murphy. Therefore, the Panel made no determination with respect to the Motion to Exclude, Motion to Dismiss, and any of the relief requests contained in the Statement of Claim.

On April 14, 2021, Murphy filed a Motion for Expungement, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on July 26, 2021, so the parties could present oral argument and evidence on Murphy's request for expungement.

Neither Claimants nor counsel participated in the expungement hearing. Corporate Respondents also did not participate in the expungement hearing.

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:

Murphy's request for expungement of the above-captioned arbitration (Occurrence Number 2037494) from his registration records maintained by the CRD is 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 =\$ 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Citizens is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

Postponement Fees

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

May 4-7, 2021, postponement requested jointly by the parties	= \$	1,125.00
May 26, 2021, postponement requested by Murphy	= \$	1,125.00

Total Postponement Fees	= \$	2,250.00
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The Panel has assessed \$375.00 of the postponement fees, jointly and severally, to Claimants.

The Panel has assessed \$375.00 of the postponement fees, jointly and severally, to Corporate Respondents.

The Panel has assessed \$1,500.00 of the postponement fees to Murphy.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

Fees apply when a hearing on the merits is cancelled within three business days before the start of a scheduled hearing session:

May 4-7, 2021, settled by the parties	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00
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The Panel has assessed \$600.00 of the last-minute cancellation fees, jointly and severally, to Claimants.

The Panel has assessed \$600.00 of the last-minute cancellation fees, jointly and severally, to Corporate Respondents.

The Panel has assessed \$600.00 of the last-minute cancellation fees to Murphy.

Discovery-Related Motion Fees

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

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed the total discovery-related motion fees, jointly and severally, to Claimants.

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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: July 13, 2020	1 session	

One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: July 26, 2021	1 session	

Total Hearing Session Fees	= \$	2,250.00
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The Panel has assessed \$375.00 of the hearing session fees, jointly and severally, to Claimants.

The Panel has assessed \$375.00 of the hearing session fees, jointly and severally, to Corporate Respondents.

The Panel has assessed \$1,500.00 of the hearing session fees to Murphy.

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

ARBITRATION PANEL

Jeffry M. Bauer	-	Public Arbitrator, Presiding Chairperson
Barbara A. Johannessen	-	Public Arbitrator
Raymond Wade Henney	-	Non-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

Jeffry M. Bauer

Jeffry M. Bauer
Public Arbitrator, Presiding Chairperson

08/02/2021

Signature Date

Barbara A. Johannessen

Barbara A. Johannessen
Public Arbitrator

08/02/2021

Signature Date

Raymond Wade Henney

Raymond Wade Henney
Non-Public Arbitrator

08/02/2021

Signature Date

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August 02, 2021

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