

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Joseph Reilly
Brian Wolf
Vijay Ande
Stephen Cameron
David Freshwater
Murray Grigg
Mark Vacirca
Steven Rothstein
Antonia Hieronymus
Daniel Hassett

Case Number: 20-01084

vs.

Respondents

Joseph Gunnar & Co., LLC
Joseph Anthony Alagna, Jr.
Stephan A. Stein

Hearing Site: Boca Raton, Florida

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 Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Joseph Reilly (“Reilly”), Brian Wolf (“Wolf”), Vijay Ande (“Ande”), Stephen Cameron (“Cameron”), David Freshwater (“Freshwater”), Murray Grigg (“Grigg”), Mark Vacirca (“Vacirca”), Steven Rothstein (“Rothstein”), Antonia Hieronymus (“Hieronymus”), and Daniel Hassett (“Hassett”): Jonathan E. Neuman, Esq., Law Offices of Jonathan E. Neuman, Esq., Fresh Meadows, New York.

For Respondents Joseph Gunnar & Co., LLC (“Joseph Gunnar”), Joseph Anthony Alagna, Jr. (“Alagna”), and Stephan A. Stein (“Stein”): John E. Lawlor, Esq., John E. Lawlor, Mineola, New York.

CASE INFORMATION

Statement of Claim filed on or about: April 1, 2020.
Joseph Reilly signed the Submission Agreement: April 1, 2020.
Brian Wolf signed the Submission Agreement: April 1, 2020.
Vijay Ande signed the Submission Agreement: April 1, 2020.
Stephen Cameron signed the Submission Agreement: April 1, 2020.
David Freshwater signed the Submission Agreement: April 1, 2020.
Murray Grigg signed the Submission Agreement: April 1, 2020.
Mark Vacirca signed the Submission Agreement: April 1, 2020.
Steven Rothstein signed the Submission Agreement: April 1, 2020.
Antonia Hieronymus signed the Submission Agreement: April 1, 2020.

Amended Statement of Claim filed on or about: June 15, 2020.
Daniel Hassett signed the Submission Agreement: February 10, 2022.

Statement of Answer filed by Respondents on or about: July 10, 2020.
Joseph Gunnar & Co., LLC signed the Submission Agreement: July 8, 2020.
Joseph Anthony Alagna, Jr. signed the Submission Agreement: July 8, 2020.
Stephan A. Stein signed the Submission Agreement: July 8, 2020.

Amended Statement of Answer filed by Respondents on or about: February 16, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, Claimants asserted the following causes of action: fraud; breach of fiduciary duty; negligence; strict liability; and failure to supervise. The causes of action relate to investments in an allegedly risky private placement, while taking a 7% commission.

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

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimants requested: recovery for compensatory damages in the minimum amount of \$1,160,000.00; pre-judgment and post-judgment interest at the statutory rate; punitive damages; reasonable attorneys' fees; expenses; costs; and such other, further, and such other, further and additional relief as to this Panel may seem just and proper.

In the Statement of Answer, as amended, Respondents requested: that the Statement of Claim be dismissed in its entirety because Claimants have failed to state any claim against Respondents upon which relief can be granted and because Claimants have failed to allege any actionable damages that are proximately, or causally, related to Respondents or anyone associated with them; and for such other, further and different relief as to the Panel seems appropriate.

At the hearing, Claimant Hieronymus requested total compensatory damages in the amount of

\$100,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 15, 2021, Claimants filed an Amended Statement of Claim to add Daniel Hassett as a Claimant.

On February 15, 2021, Respondents filed an unopposed Motion to Amend Statement of Answer to withdraw the expungement requests for Respondents Alagna and Stein without prejudice. On February 16, 2021, the Panel granted the Motion.

During the pre-hearing conference on August 13, 2021, Claimants Wolf, Cameron, Grigg, and Vacirca voluntarily dismissed their claims with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim, as amended, for Claimants Wolf, Cameron, Grigg, and Vacirca. On August 13, 2021, the Panel memorialized this in an Order.

On February 8, 2022, Claimants filed a post-hearing Affirmation of Legal Services, requesting Claimants be granted attorneys' fees and expenses. On February 8, 2022, Respondents filed a response opposing the request. On February 8, 2022, Claimants filed a reply in support of the request. The Panel addressed this request as part of the Award.

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. Respondents are jointly and severally liable for and shall pay to Claimants compensatory damages in the following sums:
 - a. Claimant Reilly: \$80,000.00
 - b. Claimant Ande: \$32,000.00
 - c. Claimant Freshwater: \$160,000.00
 - d. Claimant Rothstein: \$80,000.00
 - e. Claimant Hieronymus: \$80,000.00
 - f. Claimant Hassett: \$80,000.00
2. Respondents are jointly and severally liable for and shall pay to Claimants interest on the above-stated sums at the rate of 4.25% per annum from the date of issuance of the Award through and including the date the respective sums are paid in full.
3. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$130.65 in costs.

4. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$600.00 as reimbursement for the non-refundable portion of the claim filing fee previously paid by Claimants to FINRA Dispute Resolution Services.
5. 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 ("Code"), the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,000.00
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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 persons at the time of the events giving rise to the disputes. Accordingly, as a party, Respondent Joseph Gunnar is assessed the following:

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

Postponement Fees

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

May 3-7 and 10-14, 2021, postponement requested by the parties	=\$ WAIVED
January 31, 2022, postponement requested by the parties	=\$ WAIVED

Total Postponement Fees	=\$ WAIVED
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The Panel has waived the total postponement fees.

Last-Minute Cancellation Fees

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

January 31, 2022, cancellation requested by Parties	=\$ WAIVED
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Total Last-Minute Cancellation Fees	=\$ WAIVED
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The Panel has waived the total last-minute cancellation fees.

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

Respondent Joseph Gunnar submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed \$60.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$140.00 of the discovery-related motion fees jointly and severally to Respondents.

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 @ \$1,400.00/session = \$ 5,600.00

Pre-Hearing Conferences: July 28, 2020 1 session
August 9, 2021 1 session
August 13, 2021 1 session
January 26, 2022 1 session

Seven (7) hearing sessions with the Panel @ \$1,400.00/session = \$ 9,800.00

Hearings: February 1, 2022 2 sessions
February 2, 2022 2 sessions
February 3, 2022 2 sessions
February 4, 2022 1 session

Total Hearing Session Fees = \$ 15,400.00

The Panel has assessed \$4,620.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$10,780.00 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

Roy B. Gonas	-	Public Arbitrator, Presiding Chairperson
Michael J. Quarequio	-	Public Arbitrator
Joseph Benalt	-	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

Roy B. Gonas

Roy B. Gonas
Public Arbitrator, Presiding Chairperson

02/15/2022

Signature Date

Michael J. Quarequio

Michael J. Quarequio
Public Arbitrator

02/15/2022

Signature Date

Joseph Benalt

Joseph Benalt
Public Arbitrator

02/15/2022

Signature Date

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February 15, 2022

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