

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Valeria Blanchard

Case Number: 20-01189

vs.

Respondent
First Financial Equity Corporation

Hearing Site: Reno, 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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Valeria Blanchard (“Claimant”): Lauren Koch, Nevada City, California.

For Respondent First Financial Equity Corporation (“Respondent”): Jason L. Cassidy, Esq., Ryley Carlock & Applewhite, Phoenix, Arizona.

CASE INFORMATION

Statement of Claim filed on or about: April 10, 2020.

Amended Statement of Claim filed on or about: July 2, 2020.

Lauren Koch signed the Submission Agreement on behalf of Claimant: April 10, 2020.

Statement of Answer filed by Respondent on or about: June 15, 2020.

Respondent signed the Submission Agreement: June 15, 2020.

CASE SUMMARY

Claimant asserted the following causes of action: elder abuse; fraud; misrepresentation; failure to supervise; breach of fiduciary duty; errors/charges; and omission of facts. The causes of action relate to various unspecified securities.

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, Claimant requested compensatory damages in the amount of \$120,000.00.

In the Amended Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$120,000.00; and
2. Punitive damages in the amount of \$100,000.00.

In the Statement of Answer, Respondent requested:

1. Dismissal of all claims in their entirety, with prejudice;
2. All costs be assessed against Claimant;
3. Attorneys' fees and costs incurred herein pursuant to Arizona and federal law, including, but not limited to, A.R.S. §12-341.01 and 12-349;
4. Expungement of this matter from Respondent and Unnamed Party Michael Self's ("Self") Central Registration Depository ("CRD") records; and
5. Such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 14, 2020, Respondent filed a Motion to Dismiss pursuant to Rule 12200, 12206 and 12504 of the Code of Arbitration Procedure ("Code") ("Motion to Dismiss"). On October 18, 2020, Claimant filed a response opposing the Motion to Dismiss.

On November 16, 2020, the Panel conducted a recorded, telephonic hearing on the Motion to Dismiss. The Panel denied the Motion to Dismiss on eligibility grounds under Rule 12206, and granted the Motion to Dismiss under Rules 12200, 12201, and 12504.

The Panel determined:

1. The Blanchard Family Trust account is an investment advisory account established under Arizona law,¹ and the complained-of agreements were all for investment advisory services provided by Michael Self, a registered investment advisor. Dismissal is appropriate under FINRA Rules 12200, 12201, and 12504(a)(6)(B) because this matter does not involve FINRA-regulated conduct, accounts, or business activities.
2. Only the Blanchard Family Trust was Respondent's customer, not the Claimant, Valeria Blanchard, or her son, Lauren Koch. The Trustees have not authorized Mr.

¹ The venue for this matter is Reno, NV. The panel has concluded that a Nevada court would apply Arizona law to this matter because of the choice of law provision in the contract. See Restatement (Second) of Conflict of Laws § 187 (1971); Progressive Gulf Insurance Co. v. Faehnrich, 130 Nev. 167, 171, 327 P.3d 1061, 1063 (2014) ("Nevada tends to follow the Restatement (Second) of Conflict of Laws (1971) in determining choice-of-law questions involving contracts").

- Koch to proceed on behalf of the Trust. Dismissal is appropriate under Rules 12200 and 12201 because the claim was not brought by Respondent's customer.
3. Even if Ms. Blanchard had standing to bring a personal claim, Mr. Koch has no right or authorization to represent her contrary to Ms. Blanchard's express, written rejection of Mr. Koch. Dismissal is appropriate on this basis under Rules 12200 and 12201 because the case was not brought by a customer.
 4. Mr. Koch never had an account with or received services from Respondent. Dismissal of any claims he has brought on his own behalf is appropriate under Rules 12200 and 12201 because he is not a customer and cannot compel Respondent to submit to arbitration.
 5. The trustees of Respondent's customer, the Blanchard Family Trust, settled these claims in writing. Dismissal is also appropriate under Rule 12504(a)(6)(A).
 6. Respondent has requested expungement of this arbitration from its CRD records. As the Form BD does not elicit information from firms about customer complaints or arbitrations, this arbitration is not recorded on Respondent's CRD record. Therefore, there is no need for the arbitration panel to address expungement.
 7. Respondent sought an award of reasonable attorney's fees as part of the relief requested in its answer and in its motion. Pursuant to A.R.S. § 12-3021(B), "an arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration only if that award is authorized by law in a civil action involving the same claim...." The Panel believes that an award of reasonable attorney's fees would be justified under A.R.S. § 12-341.01 because this action arose out of a contract applying Arizona law.

An award is also justified against Mr. Koch under A.R.S. § 12-349.² He brought this claim on behalf of his mother without substantial justification and the proceedings were unreasonably delayed by his actions. Pursuant to A.R.S. § 12-350, the reasons why an award is justified under A.R.S. § 12-349 include the following: (a) A minimum amount of effort prior to the assertion of these claims would have demonstrated that neither Ms. Blanchard nor Mr. Koch were entitled to bring these claims to this arbitration. (b) No effort was made after the commencement of the action to reduce the number of claims being asserted or to dismiss the invalid claims. (c) The operative facts which would have determined the invalidity of the claim were readily available to Mr. Koch. (d) These facts were never reasonably in conflict in this matter. (e) Claimant has prevailed on no claims in controversy. (f) In mitigation, the Panel presumes that Mr. Koch and Ms. Blanchard have fewer financial resources than Respondent.

Although the Respondent submitted evidence that it incurred much higher (but still reasonable) attorney fees, the Panel concludes that an award of \$5,000 against Mr. Koch only is appropriate to mitigate the burden of the expense of litigation. A.R.S. § 12-349. See A.R.S. § 12-341.01(B).

On December 23, 2020, Respondent filed notice that this action is not reported on Self's CRD record, and therefore withdrew that request for expungement.

² The Panel notes that Nevada has a similar provision, N.R.S. § 18.010.

AWARD

After considering the pleadings and testimony at the telephonic hearing on November 16, 2020, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant’s claims are dismissed pursuant to Rules 12200, 12201, and 12504.
2. Lauren Koch is liable for and shall pay to Respondent the sum of \$5,000.00 in attorneys’ fees pursuant to Arizona Revised Statutes §12-349.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,700.00
Member Process Fee = \$ 3,250.00

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 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 @ \$1,125.00/session = \$ 4,500.00
Pre-hearing Conferences: August 14, 2020 1 session
September 3, 2020 1 session
October 21, 2020 1 session
November 16, 2020 1 session

Total Hearing Session Fees = \$ 4,500.00

The Panel has assessed \$3,375.00 of the hearing session fees to Claimant.

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

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

ARBITRATION PANEL

David I. Levine	-	Public Arbitrator, Presiding Chairperson
Arocles Aguilar	-	Public Arbitrator
Mary H. Evans	-	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

David I. Levine

David I. Levine
Public Arbitrator, Presiding Chairperson

12/31/2020

Signature Date

Arocles Aguilar

Arocles Aguilar
Public Arbitrator

01/03/2021

Signature Date

Mary H. Evans

Mary H. Evans
Non-Public Arbitrator

01/05/2021

Signature Date

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January 07, 2021

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