

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Russell Shurts

Case Number: 20-01415

vs.

Respondents
Triad Advisors, Inc.
Joseph Gerard Michaletz

Hearing Site: Denver, Colorado

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 Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Russell Shurts (“Claimant”): Scott L. Silver, Esq., Silver Law Group, Coral Springs, Florida.*

For Respondent Triad Advisors, Inc., Triad Advisors LLC appeared as the real party in interest (“Triad Advisors”): James A. McGovern, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Pittsburgh, Pennsylvania.

For Respondent Joseph Gerard Michaletz (“Joseph Michaletz”): Scott Holcomb, Esq., Holcomb + Ward, LLP, Atlanta, Georgia.

Hereinafter, Triad Advisors and Joseph Michaletz are collectively referred to as “Respondents.”

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

CASE INFORMATION

Statement of Claim filed on or about: May 6, 2020.

Claimant signed the Submission Agreement: May 5, 2020.

Statement of Answer filed by Triad Advisors on or about: July 28, 2020.

Triad Advisors signed the Submission Agreement: July 28, 2020.

Statement of Answer filed by Joseph Michaletz on or about: July 8, 2020.

Joseph Michaletz signed the Submission Agreement: July 6, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; negligence; breach of contract; and failure to supervise. The causes of action relate to investments made in Steadfast Income REIT, FS Energy & Power Fund, GPB Holdings, LP, and NorthStar Healthcare REIT.

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 according to proof to be offered at the hearing;
2. Interest at the legal rate from the date of purchase or reasonable market return;
3. Punitive damages;
4. Costs; and
5. Such other relief as is just and proper.

In the Statement of Answer, Triad Advisors did not set forth any specific request for relief.

In the Statement of Answer, Joseph Michaletz requested:

1. All claims be denied;
2. All costs be assessed to Claimant; and
3. Expungement of Occurrence Number 2073545 from his Central Registration Depository ("CRD") records pursuant to FINRA Rule 2080.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 22, 2021, Claimant 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 February 3, 2021, Triad Advisors submitted a letter, which stated that it took no position on Joseph Michaletz's expungement request.

The Panel conducted a recorded, telephonic hearing on April 6, 2021, so the parties could present oral argument and evidence on Joseph Michaletz's request for expungement.

Claimant did not participate in the expungement hearing. Triad Advisors did not participate in the expungement hearing.

The explanation provided by the Panel of their decision in the Award is for the information of the parties only and is not precedential in nature.

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. Joseph Michaletz's request for expungement of the above-captioned arbitration (Occurrence Number 2073545) from his registration records maintained by the CRD is denied:

Two of Claimant's alternative investments purchased through Joseph Michaletz are currently under the subject of pending litigation alleging fraud, among other things. At this time, the Panel cannot determine whether Claimant's claims, allegations, or information with respect to these two alternative investments are false.

2. Any and all claims for relief not specifically addressed herein 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	= \$	1,575.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Triad Advisors 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 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: August 26, 2020	1 session	

Two (2) hearing sessions on expungement request @ \$1,125.00/session	= \$	2,250.00
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Hearing: April 6, 2021 2 sessions

Total Hearing Session Fees =\$ 3,375.00

The Panel has assessed \$562.50 of the hearing session fees to Claimant.

The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$2,250.00 of the hearing session fees to Joseph Michaletz.

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

ARBITRATION PANEL

Marilyn R. Lewis	-	Public Arbitrator, Presiding Chairperson
Charles G. Michaels	-	Public Arbitrator
Eric Moutz	-	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

Marilyn R. Lewis

Marilyn R. Lewis
Public Arbitrator, Presiding Chairperson

04/19/2021

Signature Date

Charles G. Michaels

Charles G. Michaels
Public Arbitrator

04/18/2021

Signature Date

Eric Moutz

Eric Moutz
Public Arbitrator

04/16/2021

Signature Date

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.

April 20, 2021

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