

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Michael Jaremback
Linda Jaremback

Case Number: 20-01439

vs.

Respondent

LPL Financial LLC

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Michael Jaremback and Linda Jaremback: Lars Soreide, Esq., Soreide Law Group, PLLC, Pompano Beach, Florida.

For Respondent LPL Financial LLC: Neil S. Baritz, Esq. and Heather Cooper, Esq., Baritz & Colman, LLP, Boca Raton, Florida.

*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: May 6, 2020.

Linda Jaremback signed the Submission Agreement: May 6, 2020.

Michael Jaremback signed the Submission Agreement: May 6, 2020.

Statement of Answer filed by Respondent on or about: August 7, 2020.

LPL Financial LLC signed the Submission Agreement: August 11, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; breach of fiduciary duty; and negligent supervision. The causes of action relate to the purchase of alternative investments in Claimants' accounts, including but not limited to: FS Energy; Power Fund "FS Energy"; and Cion Investment Corp.

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, Claimants requested: compensatory damages in the amount of \$450,00.00; rescission; interest; costs; and any further relief the Panel deemed just and proper.

In the Statement of Answer, Respondent requested: dismissal of this action in its entirety; an express finding of expungement of all references to this matter from Unnamed Party Thomas Mark Griffiths's Central Registration Depository ("CRD") registration records; costs incurred in connection with its defense of this matter; and such further relief as the Panel deemed 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 July 13, 2021, Claimants filed a notice of settlement and requested that the case remain open so that Respondent may request expungement on behalf of Unnamed Party Thomas Mark Griffiths. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On July 28, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Party Thomas Mark Griffiths, to which no response was filed.

The Panel conducted a recorded hearing by videoconference on August 20, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement.

Claimants did not participate in the expungement hearing and did not oppose the request for expungement.

The Panel reviewed Unnamed Party Thomas Mark Griffiths's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Unnamed Party Thomas Mark Griffiths did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Mr. Griffiths's testimony and the documents presented at the hearing supporting his testimony, including the disclosures of the risks associated with the investments, and the account documents reflecting Claimants' sophistication and risk-tolerance.

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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2076104) from registration records maintained by the CRD for Unnamed Party Thomas Mark Griffiths (CRD Number 2106304) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Thomas Mark Griffiths must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

Claimants are sophisticated and experienced investors who originally purchased the type of investments at issue, Business Development Companies ("BDCs"), from Mr. Griffiths's former partner, who introduced Mr. Griffiths to Claimants prior to the former partner's retirement.

Claimants first purchased BDCs many years prior to meeting Mr. Griffiths and continued purchasing these investments through Mr. Griffiths. The investments at issue in the Statement of Claim were purchased prior to 2016. In 2016, without any communication with Mr. Griffiths, Claimants closed their accounts with Respondent and moved their investments to another brokerage firm. Claimants never once complained about their investments with Respondent or Mr. Griffiths until they filed the Statement of Claim in 2020.

Historically, Claimants made money with their BDC investments and seem to have filed the Statement of Claim to cherry-pick the losses while discounting the previous profits they made.

There is no dispute that Claimants sought out the type of investment that they are complaining about and were advised of all the risks associated with the investment.

Therefore, the Panel finds that the claims, allegations, and information in the Statement of Claim are factually impossible or clearly erroneous, Mr. Griffiths was not involved in any alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds, and the claims, allegations, and information in the Statement of Claim are false.

2. Any and all claims for relief not specifically addressed herein 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 LPL Financial LLC 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 24, 2020 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: August 20, 2021 1 session

Total Hearing Session Fees = \$ 2,250.00

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

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

Nanci Sondra Landy	-	Public Arbitrator, Presiding Chairperson
Erika Deutsch Rotbart	-	Public Arbitrator
Robert Stanley Zack	-	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

Nanci Sondra Landy

Nanci Sondra Landy
Public Arbitrator, Presiding Chairperson

08/26/2021

Signature Date

Erika Deutsch Rotbart

Erika Deutsch Rotbart
Public Arbitrator

08/26/2021

Signature Date

Robert Stanley Zack

Robert Stanley Zack
Public Arbitrator

08/26/2021

Signature Date

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August 26, 2021

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