

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

JDSF Investments, LLC

Case Number: 20-01477

vs.

Respondents

United Planners Financial Services of America
and Kevin Perlberg

Hearing Site: Milwaukee, Wisconsin

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 a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant JDSF Investments, LLC (“Claimant”): Thomas F. Burke, Esq., Thomas F. Burke, P.C., Hinsdale, Illinois.

For Respondent United Planners Financial Services of America (“United Planners”): David A. Baugh, Esq. and Monica V. Banasiuk, Esq., O’ Hagan Meyer, Chicago, Illinois.

For Respondent Kevin Perlberg (“Perlberg”) (collectively, together with United Planners, “Respondents”): Jonathan M. Sterling, Esq., Saretsky Hart Michaels + Gould, PC, Birmingham, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: May 11, 2020.

Claimant signed the Submission Agreement: May 8, 2020.

Statement of Answer filed by Respondents on or about: July 14, 2020.

United Planners signed the Submission Agreement: May 28, 2020.

Perlberg signed the Submission Agreement: June 24, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: suitability. The cause of action related to allegations that Perlberg recommended the following unsuitable

investments: CNL Lifestyle Properties, DBSI, Texas Energy, ICON Investments, LLC, Blythe Industries, I-Shares IBOXX High Yield Corp. ETF, Brown Shoe, Advance Micro Devices, Star Gas, Barclays IPath GSCI Crude Oil ETN, Powershares DB Multi-Sector Agriculture ETF, SPDR Gold Shares ETN, Market Vectors DBL Short Euro ETN, Annaly Capital Mgt, Market Vectors Brazil Small Cap ETF, MSCI Singapore ETF, Barclays IPath US Treasury 10-Yr Bear ETN, Market Vectors DBL Short Euro ETN, Morgan Stanley Var 2031 Notes linked CMS and S&P 500 Index, Morgan Stanley Var 2030 Notes, and Bear Spread on NetApp.

Unless specifically admitted in the Statement 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 compensatory damages, interest, costs, legal fees, and punitive damages.

In the Statement of Answer, Respondents requested dismissal of the Statement of Claim in its entirety; assessment of all forum fees, costs, and other charges relating to this arbitration to Claimant; its reasonable attorneys' fees and costs; expungement of all references to this matter from Central Registration Depository ("CRD") registration records for Perlberg; and 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 February 9, 2021, Perlberg filed a Motion to Dismiss Pursuant to Rules 12206 and 12504(a)(6)(A) ("Perlberg's Motion to Dismiss") of the Code of Arbitration Procedure ("Code"), to which no response was filed.

On February 11, 2021, United Planners filed a Motion to Dismiss All Claims Asserted by Claimant ("United Planners' Motion to Dismiss"), pursuant to Rules 12000, 12504, and 12206 of the Code. On April 9, 2021, Claimant filed a Response to United Planners' Motion to Dismiss. On April 16, 2021, United Planners filed a Reply in Support of its Motion to Dismiss. On May 14, 2021, the Panel heard oral arguments on Respondents' Motions to Dismiss. In an Order dated the same day, the Panel granted the Respondents' Motions to Dismiss pursuant to Rule 12206 of the Code.

On May 25, 2021, Claimant filed a Motion for Reconsideration of the Panel's May 14, 2021 Order. On May 30, 2021, United Planners filed a Response to the Motion for Reconsideration. On June 4, 2021, Perlberg filed a Response to the Motion for Reconsideration. In an Order dated June 16, 2021, the Panel denied the Motion for Reconsideration.

On June 25, 2021, Respondents filed notice that Perlberg would not be pursuing his request for expungement. Therefore, the Panel made no determination with respect to Perlberg's expungement request.

Herein, the Panel confirms its decision granting Respondents' Motions to Dismiss pursuant to Rule 12206 on the following grounds:

This action was commenced more than six years from the occurrences or events that gave rise to the alleged claims.

Respondents' Motions to Dismiss pursuant to Rule 12206 of the Code are granted by the Panel without prejudice to any right Claimant has to file in court; Claimant is not prohibited from pursuing its claims in court pursuant to Rule 12206(b) of the Code.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, Respondents' Motions to Dismiss and any response thereto, and the arguments presented at the pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety pursuant to FINRA Rule 12206 of the Code.
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	= \$	1,575.00
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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, United Planners 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:

July 20-23, 2021, postponement requested by the parties	Waived
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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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00
Pre-Hearing Conferences: September 4, 2020
May 14, 2021

Total Hearing Session Fees = \$ 2,250.00

The Panel has assessed \$1,687.50 of the hearing session fees to Claimant.

The Panel has assessed \$562.50 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

Jeffry M. Bauer	-	Public Arbitrator, Presiding Chairperson
David E. Jarvis	-	Public Arbitrator
Gregory G. Wille	-	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

David E. Jarvis

David E. Jarvis
Public Arbitrator

08/02/2021

Signature Date

Gregory G. Wille

Gregory G. Wille
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)