

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Joseph S. Serensits, Jr.

Case Number: 20-01900

vs.

Respondents

Wells Fargo Advisors Financial Network
Firhan Nasir Choudhary

Hearing Site: Raleigh, North Carolina

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.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Joseph S. Serensits, Jr.: Eric D. Edwards, Esq., Heidgerd & Edwards, LLP, Raleigh, North Carolina.

For Respondents Wells Fargo Advisors Financial Network (“WFA”) and Firhan Nasir Choudhary (“Choudhary”): Stephen M. Cox, Esq., Robinson Bradshaw & Hinson, P.A., Charlotte, North Carolina.

CASE INFORMATION

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

Joseph S. Serensits, Jr. signed the Submission Agreement: June 22, 2020.

Amended Statement of Claim filed on or about: September 8, 2020.

Statement of Answer filed by Respondents on or about: October 7, 2020.

Wells Fargo Advisors Financial Network signed the Submission Agreement: October 7, 2020.

Firhan Nasir Choudhary signed the Submission Agreement: October 7, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: unauthorized trading; unsuitable investment; breach of fiduciary duty; churning; and failure to supervise. The causes of action relate to the purchase of Class A mutual fund shares and Unit Investment Trusts.

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, as amended, Claimant requested: restitution, compensatory damages, disgorgement, and well-maintained portfolio damages in the amount of \$220,766.00; punitive damages; interest at the legal rate from at least May 28, 2017, until paid; attorneys' fees; costs; and for such other relief as the Panel deemed just and proper.

In the Statement of Answer, Respondents requested: that the Amended Statement of Claim be dismissed in its entirety and with prejudice; expungement of this claim from the Central Registration Depository ("CRD") records of Respondent Choudhary; costs and expenses; and for such other and further relief as is 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 September 8, 2020, Claimant filed a Motion to Amend Statement of Claim to clarify certain facts to which no response was filed. On or about September 23, 2020, the Panel granted the Motion.

On October 15, 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 October 25, 2021, Respondents filed a Motion for Expungement on behalf of Respondent Choudhary, to which no response was filed.

The Panel conducted a recorded hearing by videoconference on October 26, 2021, so the parties could present oral argument and evidence on Respondent Choudhary's request for expungement.

Claimant's counsel participated briefly in the expungement hearing and did not oppose the request for expungement.

The Panel reviewed Respondent Choudhary'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 Respondent Choudhary did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: all documents presented by Respondent Choudhary's counsel; Respondent Choudhary's BrokerCheck® report; the settlement agreement; the testimony of Respondent Choudhary; and the testimony of Respondent Choudhary's expert witness.

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 2007895) from registration records maintained by the CRD for Respondent Firhan Nasir Choudhary (CRD Number 3023022) with the understanding that, pursuant to Notice to Members 04-16, Respondent Firhan Nasir Choudhary 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 claim, allegation, or information is false.

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

Respondent Choudhary did not have discretionary investment authority over the accounts in question. He regularly consulted with Claimant's mother and, later after his mother's mental decline, with Claimant concerning the accounts in question. Claimant authorized the trades made in the accounts in question following his mother's mental decline. Respondent Choudhary managed the accounts in question consistent with Claimant's mother's long-term investment objectives. The authorized investments made by Respondent Choudhary were suitable for the objectives of the accounts in question. Expert testimony established that the accounts in question were managed by Respondent Choudhary in accordance with industry standards.

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 WFA is assessed the following:

Member Surcharge = \$ 1,700.00

Member Process Fee = \$ 3,250.00

Last-Minute Cancellation Fees

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

October 18, 2021, settled by Claimant = \$ 1,800.00

Total Last-Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed \$900.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$900.00 of the last-minute cancellation 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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: October 21, 2020 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: October 26, 2021 1 session

Total Hearing Session Fees = \$ 2,250.00

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 \$1,125.00 of the hearing session fees to Respondent Choudhary.

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

ARBITRATION PANEL

Michael E. Weddington	-	Public Arbitrator, Presiding Chairperson
Barbara Black	-	Public Arbitrator
John Russell Barlow, II	-	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

Michael E. Weddington

Michael E. Weddington
Public Arbitrator, Presiding Chairperson

11/03/2021

Signature Date

Barbara Black

Barbara Black
Public Arbitrator

11/03/2021

Signature Date

John Russell Barlow, II

John Russell Barlow, II
Public Arbitrator

11/03/2021

Signature Date

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November 04, 2021

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