

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Ernest Guenin
Monique Guenin

Case Number: 20-01958

vs.

Respondents

Vanderbilt Securities, LLC
Stephen Distante
Steven Howe
Thomas Murphy
Stephen Trask
Joseph Trifiletti
Barry Champney

Hearing Site: Philadelphia, Pennsylvania

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 and Associated Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Ernest Guenin, and Monique Guenin: Peter M. Good, Esq. and Robert W. Diehl, Esq., Caldwell & Kearns P.C., Harrisburg, Pennsylvania.

For Respondents Vanderbilt Securities, LLC (“Vanderbilt”), Stephen Distante (“Distante”), Steven Howe (“Howe”), Thomas Murphy (“Murphy”), Stephen Trask (“Trask”) and Joseph Trifiletti (“Trifiletti”): Charles M. O’Rourke, Esq., Woodbury, New York. Vanderbilt, Distante, Howe, Murphy, Trask and Trifietti are hereinafter collectively referred to as “Respondents”.

Respondent Barry Champney did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: June 21, 2020.

Amended Statement of Claim filed on or about: July 27, 2020.

Second Amended Statement of Claim filed on or about: March 19, 2021.

Ernest Guenin signed the Submission Agreement: July 27, 2020.
Monique Guenin signed the Submission Agreement: July 27, 2020.

Answer to the Amended Statement of Claim filed by Respondents on or about: August 31, 2020.
Answer to the Second Amended Statement of Claim filed by Respondents on or about: March 25, 2021.

Vanderbilt Securities, LLC signed the Submission Agreement: July 15, 2020.
Stephen Distant signed the Submission Agreement: July 15, 2020.
Steven Howe signed the Submission Agreement: July 15, 2020.
Thomas Murphy signed the Submission Agreement: July 15, 2020.
Stephen Trask signed the Submission Agreement: July 15, 2020.
Joseph Trifiletti signed the Submission Agreement: July 15, 2020.
Barry Champney did not submit a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statements of Claim, Claimants asserted the following causes of action: unsuitable investments; breach of fiduciary duty; negligence; failure to supervise; failure to explain the risks and disadvantages of its investment advice, vicarious liability; violations of the Pennsylvania Securities Act; and breach of the Unfair Trade Practices and Consumer Protection Law ("UTPCPL"). The causes of action relate to unspecified securities and margin trading.

Unless specifically admitted in the Answer to the Amended Statement of Claim and Answer to the Second Amended Statement of Claim, Respondents denied the allegations made in the Amended Statements of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Amended Statements of Claim, Claimants requested compensatory damages of at least \$1,400,000.00; restitution; punitive damages; treble damages in accordance with the UTPCPL; interest on all sums at the legal rate; attorneys' fees and costs; and such other and additional relief as deemed just and proper.

In the Answer to the Amended Statement of Claim and Answer to the Second Amended Statement of Claim, Respondents requested that all claims be dismissed and the claims against the individual Respondents be expunged by Order of Expungement by the Arbitration Panel.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Statement of Claim filed on June 21, 2020 included Barry Champney as a Respondent. Respondents' counsel informed FINRA Dispute Resolution Services on July 10, 2020 that Barry Champney passed away on November 25, 2018. Therefore, Claimants filed an Amended Statement of Claim on July 27, 2020 excluding Barry Chapman as a Respondent.

On January 6, 2021, Respondents filed a Motion in Limine to Strike certain portions of Claimants' Amended Statement of Claim. Claimants filed an Opposition on January 15, 2021 and Respondents filed a Reply in Support on the motion on January 22, 2021. By Order dated February 19, 2021, the Panel granted Respondents' motion. Pursuant to the Panel's Order, Claimants filed a Second Amended Statement of Claim on March 19, 2021.

On May 19, 2021, Claimants filed a Motion for a Zoom Hearing. Respondents filed an Opposition on May 26, 2021 and Claimants filed a Reply in Support on the Motion on May 27, 2021. By Order dated June 4, 2021, the Panel granted Claimants Motion for Zoom Hearing.

At the conclusion of Claimants' case-in-chief, Respondents Murphy, Distante, Trifiletti and Howe made a Motion to Dismiss, and Claimants opposed the motion. After due deliberation, the Panel denied the Motion to Dismiss.

Respondents Murphy, Distante, Trifiletti and Howe did not pursue their request for expungement at the hearing. Therefore, the Panel made no determination with respect to Murphy, Distante, Trifiletti and Howe's request for expungement.

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. Respondents Vanderbilt Securities, LLC and Stephen Trask are jointly and severally liable for and shall pay to Claimants the sum of \$200,000.00 in compensatory damages.
2. Stephen Trask's request for expungement of the above-captioned arbitration (Occurrence Number 2073973) from his registration records maintained by the CRD is denied.
3. Claimants' claims against Murphy, Distante, Trifiletti and Howe are denied in their entirety.
4. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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 =\$ 2,250.00

**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 that employed the associated persons at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Vanderbilt Securities, LLC is assessed the following:

Member Surcharge	= \$ 3,600.00
Member Process Fee	= \$ 6,800.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 200.00
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Respondents submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed the total discovery-related motion fees jointly and severally to Claimants.

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,500.00/session	= \$ 1,500.00
Pre-Hearing Conference: November 19, 2020 1 session	

Eleven (11) hearing sessions @ \$1,500.00/session	= \$ 16,500.00
Hearings:	
July 19, 2021	1 session
July 20, 2021	2 sessions
July 21, 2021	2 sessions
July 22, 2021	2 sessions
August 31, 2021	2 sessions
September 1, 2021	2 sessions

Total Hearing Session Fees	= \$ 18,000.00
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The Panel has assessed \$9,000.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$9000.00 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

Diane Ciccone	-	Public Arbitrator, Presiding Chairperson
Gregory J. Spadea	-	Public Arbitrator
Peter George Erdely	-	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

Diane Ciccone

Diane Ciccone
Public Arbitrator, Presiding Chairperson

09/14/2021

Signature Date

Gregory J. Spadea

Gregory J. Spadea
Public Arbitrator

09/13/2021

Signature Date

Peter George Erdely

Peter George Erdely
Public Arbitrator

09/14/2021

Signature Date

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September 15, 2021

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