

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Andrew Montgomery Costa

Case Number: 20-02640

vs.

Respondent

G.F. Investment Services, 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: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Andrew Montgomery Costa: Harris Freedman, Esq., Of Counsel to HLBS Law, Westminster, Colorado.

Respondent G.F. Investment Services, LLC did not appear.

CASE INFORMATION

Statement of Claim filed on or about: August 17, 2020.

Andrew Montgomery Costa signed the Submission Agreement: August 17, 2020.

G.F. Investment Services, LLC did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of information from registration records maintained by the Central Registration Depository (“CRD”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1972990, 1972992, 1972991, 1980392, 1984143, 2003028, 2029144 and 2046510; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

Respondent did not file a Statement of Answer. The Arbitrator determined that Respondent was served with the Claim Notification letter dated August 18, 2020 by regular mail, and the Overdue Notice (including the Statement of Claim) dated October 8, 2020 by regular and certified mail, as evidenced by the signed signature card on file. The Arbitrator also determined that Respondent was served with the Notification of Panel dated November 2, 2020 by regular and certified mail, as evidenced by the signed signature card on file.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

On April 12, 2021, Claimant filed an Affidavit of Service reflecting that on April 9, 2021, the customers in Occurrence Numbers 1972990, 1972991, 1980392, 1984143, 2003028, 2029144 and 2046510 ("Living Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. The Affidavit contained as exhibits FedEx documentation reflecting successful delivery to each of the Living Customers.

On April 12, 2021, Claimant filed notice reflecting that the customer in Occurrence Number 1972992 is deceased ("Deceased Customer").

The Arbitrator conducted a recorded telephonic hearing on May 17-20, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Living Customers also did not participate in the expungement hearing. The Arbitrator found that the Living Customers had notice of the expungement request and hearing. With respect to the Deceased Customer, the Arbitrator was satisfied that the case complies with the service requirements of Rule 2080 and that no further steps by Claimant are required.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1972990, 1972992, 1972991, 1984143, 2003028, 2029144 and 2046510, considered the

amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement. The Arbitrator further noted that Claimant often contributed to the settlements because it represented a fraction of the amount sought and a nominal amount in light of the potential cost of arbitration or litigation.

The Arbitrator noted that the dispute related to Occurrence Number 1980392 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon all of Claimant's Expungement Hearing Exhibits and Claimant's best recollections of the details of each of the Occurrence Numbers.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim for \$1.00 in compensatory damages is granted.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1972990, 1972992, 1972991, 1980392, 1984143, 2003028, 2029144 and 2046510 from registration records maintained by the CRD for Claimant Andrew Montgomery Costa (CRD Number 4847063) with the understanding that, pursuant to Notice to Members 04-16, Claimant Andrew Montgomery Costa 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 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact as to each Occurrence:

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

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

Occurrence Number 1972990

The Customers became Claimant's clients in May 2011. Their annual income was approximately \$60,000.00 per year. Their net worth was approximately \$1,000,000.00. Their primary objective was income, with a secondary objective of capital appreciation. They had a moderate risk tolerance.

Based on their investment profile, Claimant recommended a variety of investments as part of a balanced diversified portfolio, which included a real estate investment trust (REIT). Claimant explained to them the terms, risks, costs, fees, advantages and disadvantages of the REIT. In 2014, they purchased the RCA REIT.

Subsequently, they purchased promissory notes issued by Woodbridge Group of Companies, LLC ("Woodbridge Notes") through a different financial advisor. The Woodbridge Notes were not recommended by, or purchased through, Claimant or his advisory team.

Despite the above facts, these Customers sought \$175,000.00 in compensatory damages. Rather than going through the costs of an evidentiary hearing, the case was settled. Claimant's Errors and Omissions Insurance policy paid the full settlement.

Because Claimant made suitable recommendations and did not solicit the purchase of the Woodbridge Notes, and performed his duties in a thorough, ethical and professional manner, the Arbitrator recommends expungement.

Occurrence Number 1972992

The Customer was a client of Claimant's father. At no time was he Claimant's client, nor did he ever have an account with Claimant. Claimant never met this Customer, and never offered him any investment suggestions.

Despite the above facts, this Customer sought compensatory damages from Claimant in the amount of \$700,000.00. Rather than going through the costs of an evidentiary hearing, Claimant settled with this Customer.

Occurrence Number 1972991

This Customer became a client of Claimant's advisory team and specifically requested to invest in a non-traded REIT. In March 2013, she purchased a REIT which represented approximately 5% of her portfolio.

During the period that this Customer was Claimant's client, the value of her portfolio increased. She subsequently moved her account to another brokerage firm, which primarily sought out high risk investments.

In March 2018, this Customer filed for arbitration against Claimant, alleging "breach of fiduciary duty, and negligence related to the recommendation and sale of the product at issue". Although the allegation related to the sale of the product was false, rather than going through the costs of an evidentiary hearing, Claimant settled with this Customer.

Occurrence Number 1980392

The Customers in this case were clients of Claimant's father. At no time were they Claimant's clients. They purchased Woodbridge Notes from Claimant's father.

The Customers sought compensatory damages in the amount of \$150,000.00. Because Claimant had no involvement with the purchase of the investment at issue, and just because he shares the same name as his father, he should not be held responsible for an alleged sales practice violation in connection with an investment in which he had no involvement.

Occurrence Number 1984143

The Customers in this case were clients of Claimant's father. At no time were they clients of Claimant or his advisory team. In January 2016, they purchased Woodbridge Notes from Claimant's father.

The Customers sought compensatory damages against Claimant in the amount of \$696,500.00. Rather than going through the costs of an evidentiary hearing, Claimant settled with these Customers.

Occurrence Number 2003028

The Customers purchased REITs from Claimant. They then purchased Woodbridge Notes from Claimant's father, which were not solicited by Claimant. Claimant did not sell the Woodbridge Notes to these Customers.

The Customers sought compensatory damages from Claimant in the amount of \$100,000.00. The brokerage firm settled with the Customers. Claimant did not contribute to the settlement.

Occurrence Number 2029144

In April 2016, the Customer purchased Woodbridge Notes through Claimant's father. They were not sold or purchased through Claimant.

The Customer sought compensatory damages in the amount of \$150,000.00. The case was settled, and Claimant did not contribute to the settlement amount.

Occurrence Number 2046510

In September 2012, this Customer became a client of the Costa Advisory Team. He had previous success investing in REITs. He understood that REITs had high investment risk.

The Customer sought compensatory damages in the amount of \$51,000.00. Rather than incurring the cost of arbitration or litigation, the case was settled, and Claimant contributed half of the settlement proceeds.

As to all Occurrences

Claimant has been a financial services professional since July 2004, and is currently a registered representative with Madison Avenue Securities in Fort Lauderdale, Florida. Claimant was a registered representative for Respondent during the period February 2010 to August 2017.

Claimant's father was barred from the securities industry for a failure to comply with an arbitration award or settlement agreement, or to satisfactorily respond to a FINRA Request to provide information concerning the status of compliance. In or around 2017, Claimant's father operated his own financial services practice, "Costa Financial," out of a separate office in the same building as Claimant.

Respondent did not appear in this matter or during any of the hearing sessions, and did not challenge Claimant's expungement requests.

3. 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 =\$ 50.00

**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 is assessed the following:

Member Surcharge =\$ 150.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session =\$ 50.00
Pre-Hearing Conference: January 5, 2021 1 session

Four (4) hearing sessions on expungement request @ \$50.00/session =\$ 200.00
Hearings: May 17, 2021 1 session
May 18, 2021 1 session
May 19, 2021 1 session
May 20, 2021 1 session

Total Hearing Session Fees =\$ 250.00

The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Monroe Mitchel

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Sole 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.

Arbitrator's Signature

Monroe Mitchel

Monroe Mitchel
Sole Public Arbitrator

05/28/2021

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.

May 28, 2021

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