

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nicholas Losinno

Case Number: 20-02694

vs.

Respondents
LPL Financial LLC and Thomas Fross

Hearing Site: Pittsburgh, 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: 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 Nicholas Losinno (“Claimant”): Mark S. Gregory, Esq., Martin LLP, Stamford, Connecticut.

For Respondents LPL Financial LLC (“LPL”) and Thomas Fross (“Fross”) (collectively, “Respondents”): Tracey Salmon-Smith, Esq., Faegre Drinker Biddle & Reath LLP, Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: August 20, 2020.
Claimant signed the Submission Agreement: August 19, 2020.

Statement of Answer filed on or about: October 12, 2020.
LPL signed the Submission Agreement: October 7, 2020.
Fross signed the Submission Agreement: October 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted that, after granting discretion to Fross, he expressed a desire for his account not to be changed; however, Fross liquidated all of the stock in his account (namely, Yamaha Gold, Pfizer, British Petroleum, Coke, Penn Power & Light,

AT&T, Haliburton, and Wells Fargo) and used the proceeds to purchase mutual funds and a unit investment trust, without considering or explaining the tax consequences.

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 in the amount of at least \$140,000.00, punitive damages, costs, prejudgment interest, and such other and further relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondents requested that Claimant take nothing by his Statement of Claim and that the Statement of Claim be dismissed in its entirety with prejudice, that all FINRA forum fees be assessed against Claimant, and that all references to this matter be expunged from Fross' registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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

At the recorded evidentiary hearing, conducted by videoconference, Respondents reasserted their request for expungement of this matter from Fross' CRD records.

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. Claimant's claims are denied in their entirety.
2. Respondents' request for expungement of the above-captioned arbitration (Occurrence Number 2079789) from Fross' registration records maintained by the CRD is denied.
3. 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, 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, LPL is assessed the following:

Member Surcharge = \$ 1,700.00
Member Process Fee = \$ 3,250.00

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: December 22, 2020 1 session

Four (4) hearing sessions @ \$1,125.00/session = \$ 4,500.00
Hearings: April 19, 2021 2 sessions
April 20, 2021 2 sessions

Total Hearing Session Fees = \$ 5,625.00

The Panel has assessed \$2,812.50 of the hearing session fees to Claimant.

The Panel has assessed \$2,812.50 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

Jim Geiger	-	Public Arbitrator, Presiding Chairperson
Barry Goldman	-	Public Arbitrator
James T. Carney	-	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

Jim Geiger

Jim Geiger
Public Arbitrator, Presiding Chairperson

04/23/2021

Signature Date

Barry Goldman

Barry Goldman
Public Arbitrator

04/23/2021

Signature Date

James T. Carney

James T. Carney
Public Arbitrator

04/23/2021

Signature Date

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April 26, 2021

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