

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Jon and Christine Sipe JTWROS

Case Number: 20-02804

vs.

Respondents

John Thomas Financial,
Joseph Louis Castellano,
Kenneth Michael Dwyer,
Anastasios P. Belesis, and
Nathalo Menendez

Hearing Site: Chicago, Illinois

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

REPRESENTATION OF PARTIES

For Claimants Jon and Christine Sipe JTWROS (“Claimants”): David B. Vermont, Esq., Securities Arbitration Law Group, Washington, District of Columbia.

Respondent John Thomas Financial (“JTF”) did not appear.

For Respondent Joseph Louis Castellano (“Castellano”): Anthony C. Varbero, Esq., Joseph Mure Jr. & Associates, Brooklyn, New York.

Respondent Kenneth Michael Dwyer (“Dwyer”) appeared pro se.

Respondent Anastasios P. Belesis (“Belesis”) did not appear.

Respondent Nathalo Menendez (“Menendez”) did not appear.

CASE INFORMATION

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

Claimants signed the Submission Agreement: August 26, 2020.

Statement of Answer filed by Dwyer on or about: September 23, 2020.

Dwyer did not sign the Submission Agreement.

JTF, Castellano, Belesis and Menendez did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: statutory and common law fraud, misrepresentation, negligence, breach of contract, and breach of fiduciary duty. The causes of action related to Claimants' allegation that Dwyer and Menendez solicited them, based on misrepresentations, to purchase Amarin stock and to purchase Cirrus logic stock on margin.

Unless specifically admitted in the Statement of Answer, Dwyer denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested an award of compensatory damages in the amount of \$263,672.00 or that amount of compensatory damages the Panel deems to be appropriate; interest at the statutory rate as provided by law; reimbursement for the reasonable costs associated with the filing of this claim, including costs of representation, travel, and expert witnesses; and punitive damages in an amount determined by the Panel.

In the Statement of Answer, Dwyer did not request any relief.

OTHER ISSUES CONSIDERED AND DECIDED

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

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

JTF, Castellano, Belesis, and Menendez did not file properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Arbitrator on all issues submitted.

On September 23, 2020, Dwyer filed a Motion to Dismiss. On October 19, 2020, Claimants filed a response opposing the Motion to Dismiss.

On October 2, 2020, Claimants filed a Notice of Dismissal Without Prejudice against Castellano. Accordingly, the Arbitrator made no determination with respect to any of the relief requests against Castellano contained in the Statement of Claim.

On August 20, 2021, Claimants filed a Notice of Dismissal with Prejudice against JTF and Dwyer. Accordingly, Dwyer's Motion to Dismiss became moot and the Arbitrator made no determination with respect to any of the relief requests against JTF and Dwyer contained in the Statement of Claim.

On August 20, 2021, Claimants filed a Motion for Default Proceedings Against Belesis and

Menendez pursuant to Rule 12801 of the Code (“Motion for Default”), to which no response was filed. Pursuant to Rule 12801 of the Code, the Chairperson appointed in this matter became the sole arbitrator to consider the Motion for Default.

AWARD

After considering the pleadings and all submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimants’ claims are denied in their entirety.

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
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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, JTF is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

December 28, 2020, cancellation by Claimants	= \$	300.00
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Total Late Pre-Hearing Cancellation Fees	= \$	300.00

The Panel has assessed the total late pre-hearing cancellation fees, jointly and severally, to Claimants.

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:

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences: February 4, 2021	1 session	
April 8, 2021	1 session	
July 22, 2021	1 session	

Decision on the papers:	= \$	300.00
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Total Hearing Session Fees	= \$	3,675.00
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The Arbitrator has assessed the total hearing session fees, jointly and severally, to Claimants.

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

ARBITRATOR

Susan L. Walker

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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

Susan L. Walker

Susan L. Walker
Sole Public Arbitrator

09/24/2021

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.

September 24, 2021

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