

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
James Freund IRA

Case Number: 20-03126

vs.

Respondent
Ameriprise Financial Services, LLC

Hearing Site: Milwaukee, Wisconsin

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant James Freund IRA (“Claimant”): Michael S. Hill, Esq. and Gary S. Menzer, Esq., Menzer & Hill, P.A., Boca Raton, Florida.

For Respondent Ameriprise Financial Services, LLC (“Respondent”): Niels P. Murphy, Esq. and Lawton R. Graves, Esq., Murphy & Anderson, P.A., Jacksonville, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.
Claimant signed the Submission Agreement: September 10, 2020.

Statement of Answer filed on or about: November 9, 2020.
Respondent signed the Submission Agreement: November 3, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and warranties, promissory estoppel, violation of state securities statutes, breach of fiduciary duty, negligence and gross negligence, misrepresentation/omission and negligent misrepresentation/omission, unjust enrichment, failure to supervise, common law and statutory claims, and vicarious and control person liability. The causes of action related to allegations that

Respondent solicited Claimant to purchase an extremely risky and speculative investment, Franklin Square Investment Corporation II.

Unless specifically admitted in the Statement of Answer, Respondent 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 of approximately \$226,732.00; statutory damages pursuant to state laws, including rescissionary damages, lost opportunity damages, accrued statutory interest, and attorneys' fees; punitive damages; costs; filing and hearing fees; and other remedies the Panel deems proper and appropriate.

In the Statement of Answer, Respondent requested that Claimant's Statement of Claim be denied with prejudice, together with an award of all reasonable forum costs and expenses, expungement of all references to this matter from Central Registration Depository ("CRD") registration records of Unnamed Party Stephen Kinney ("Kinney"), and other relief as the Panel deems appropriate.

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, 2021, Claimant filed an Emergency Motion to Request Hearing by Videoconference or to Postpone ("Motion for Videoconference Hearing"). On September 15, 2021, Respondent filed a Response to Claimant's Motion for Videoconference Hearing. On September 16, 2021, Claimant filed a Reply to Respondent's Response to Claimant's Motion for Videoconference Hearing. In an Order dated September 20, 2021, the Panel granted Claimant's request for the hearing to proceed by videoconference.

The Panel considered the request for expungement of Kinney's registration records as part of the in-person, recorded evidentiary hearing conducted in this matter.

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. Respondent's request for expungement of the above-captioned arbitration (Occurrence Number 2091000) from registration records maintained by the CRD for Unnamed Party Stephen Kinney 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, Respondent 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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00

Pre-Hearing Conferences: January 11, 2021 1 session

August 27, 2021 1 session

Seven (7) hearing sessions @ \$1,125.00/session = \$ 7,875.00

Hearings: September 28, 2021 2 sessions

September 29, 2021 2 sessions

October 1, 2021 2 sessions

October 25, 2021 1 session

Total Hearing Session Fees = \$ 10,125.00

The Panel has assessed \$5,062.50 of the hearing session fees to Claimant.

The Panel has assessed \$5,062.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Leonard Arthur Nelson	-	Public Arbitrator, Presiding Chairperson
Sally J. Wiggins	-	Public Arbitrator
Maxwell Charles Livingston	-	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

Leonard Arthur Nelson

Leonard Arthur Nelson
Public Arbitrator, Presiding Chairperson

11/18/2021

Signature Date

Sally J. Wiggins

Sally J. Wiggins
Public Arbitrator

11/18/2021

Signature Date

Maxwell Charles Livingston

Maxwell Charles Livingston
Public Arbitrator

11/18/2021

Signature Date

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November 18, 2021

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