

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Eric Sorkin and Christie Sorkin,
as Trustees of the Sorkin Living Trust

Case Number: 20-03256

vs.

Respondent

Cetera Advisor Networks, LLC

Hearing Site: Orlando, 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: Customer vs. Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Eric Sorkin and Christie Sorkin, as Trustees of the Sorkin Living Trust (“Claimants”): Michael S. Hill, Esq. and Gary S. Menzer, Esq., Menzer & Hill, P.A., Boca Raton, Florida.

For Respondent Cetera Advisor Networks, LLC (“Respondent”): Elaine M. Rice, Esq., Johnson, Cassidy, Newlon & DeCort, P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 15, 2020.
Claimants signed the Submission Agreement: September 14, 2020.

Statement of Answer filed on or about: February 11, 2021.
Respondent signed the Submission Agreement: January 22, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; gross negligence; misrepresentation; omission of material facts; failure to supervise; breach of fiduciary duty; and breach of contract. The causes of action related to allegations that Respondent sold to Claimants speculative, high-risk investments, which were completely contrary to what Respondent represented to Claimants and over-concentrated Claimants’ account.

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, Claimants requested compensatory damages of approximately \$312,283.00; 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 just and proper.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim in its entirety; award Respondent reasonable attorneys' fees and costs incurred in connection with this proceeding; and grant such other and further relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 28, 2021, Respondent filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On June 28, 2021, Claimants filed a Response to the Motion to Dismiss. On July 16, 2021, Respondent filed a Reply in Support of the Motion to Dismiss. On August 20, 2021, the Panel heard oral arguments on the Motion to Dismiss. Herein, the Panel grants the Motion to Dismiss on the following grounds:

Claimants filed the Statement of Claim on September 15, 2020. The securities at issue in this case were purchased in April 2010, November 2010, January 2012, January 2014, and May 2014. On July 16, 2014, Claimants' trustees signed an account opening agreement with a different brokerage firm and on August 26, 2014, signed account transfer instructions for the securities at issue to move these securities to the new brokerage firm, which dates were more than six years prior to the filing of the Statement of Claim. The acts or omissions alleged as the basis of the claim therefore occurred more than six years prior to the filing of the Statement of Claim, and, under FINRA Rule 12206(a), the claim is not eligible for submission to arbitration.

Respondent's Motion to Dismiss pursuant to Rule 12206 of the Code is granted by the Panel without prejudice to any right Claimants have to file in court; Claimants are not prohibited from pursuing their claims in court pursuant to Rule 12206(b) of the Code.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, Respondent's Motion to Dismiss and all responses thereto, and the arguments presented at the recorded pre-hearing conference on August 20, 2021, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed in their entirety pursuant to Rule 12206 of the Code.
2. 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, 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, Respondent is assessed the following:

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

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: February 12, 2021	1 session
August 20, 2021	1 session

Total Hearing Session Fees	=\$ 2,250.00
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The Panel has assessed \$1,687.50 of the hearing session fees to Claimant.

The Panel has assessed \$562.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Gayle B. Carlson	-	Public Arbitrator, Presiding Chairperson
Alan E. Linden	-	Public Arbitrator
Tyrone Nathaniel Watson	-	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

Gayle B. Carlson

Gayle B. Carlson
Public Arbitrator, Presiding Chairperson

08/30/2021

Signature Date

Alan E. Linden

Alan E. Linden
Public Arbitrator

08/30/2021

Signature Date

Tyrone Nathaniel Watson

Tyrone Nathaniel Watson
Public Arbitrator

08/31/2021

Signature Date

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August 31, 2021

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