

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Case Number: 20-03374

Kurtis Emshousen, Dawn Emshousen,
Connor Emshousen, David Friedrichs,
Alicia Friedrichs, Elliott Higginbotham,
Daniel Orms, Stephanie Orms, William Reilly,
Jana Reilly, Jerry Ellen Stephens, individually and
on behalf of the Jerry William Stephens Trust,
Carson Stephens, Hunter Stephens,
Gerry Stephens, Leslie Stephens,
Larry Guthrie, Steven Friedman, individually and on
behalf of the Steven A. Friedman Revocable Trust,
Lee Meredith Friedman, Robert Bridges,
Kerri Bridges, Roger Dowdy, Douglas Egbert,
Malinda Roberson, Mary Corsair,
Douglas Brown, Andrew Knopfel,
Douglas Havelka, William Ridings,
Jeff Finley, Brian Bazata, Heidi Bazata,
Kay Thornton, Thomas Marks,
John Hubert, Eileen Hubert, Nelson Randall,
Michael Dorman, Timothy Dorman,
Virginia Schumacher, John Eric Carter,
Ronald Carter, Ronald Carter and John Eric Carter
as trustees of the Ronald N. Carter Revocable Trust,
Barbara Stephens, Curtis Stanfill, Terry Ferguson,
Carolyn Lura, Eddie Case, and Varda Sue Case

vs.

Respondent

Hearing Site: St. Louis, Missouri

Principal Securities, Inc.

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Kurtis Emshousen, Dawn Emshousen, Connor Emshousen, David Friedrichs, Alicia Friedrichs, Elliott Higginbotham, Daniel Orms, Stephanie Orms, William Reilly, Jana Reilly, Jerry Ellen Stephens, individually and on behalf of the Jerry William Stephens Trust, Carson Stephens, Hunter Stephens, Gerry Stephens, Leslie Stephens, Larry Guthrie, Steven Friedman, individually and on behalf of the Steven A. Friedman Revocable Trust, Lee Meredith Friedman, Robert Bridges, Kerri Bridges, Roger Dowdy, Douglas Egbert, Malinda Roberson, Mary Corsair, Douglas Brown, Andrew Knopfel, Douglas Havelka, William Ridings, Jeff Finely, Brian Bazata, Heidi Bazata, Kay Thornton (“Thornton”), Thomas Marks, John Hubert, Eileen Hubert, Nelson Randall, Michael Dorman, Timothy Dorman, Virginia Schumacher, John Eric Carter, Ronald Carter, Ronald and John Eric Carter as trustees of the Ronald N. Carter Revocable Trust, Barabara Stephens, Curtis Stanfill, Terry Ferguson, Carolyn Lura (“Lura”), Eddie Case (“E. Case”), and Verda Sue Case (“V. Case”), hereinafter collectively referred to as “Claimants”: Adam J. Weinstein, Esq. and Adam J. Gana, Esq., Gana Weinstein LLP, New York, New York.

For Respondent Principal Securities, Inc. (“Respondent”): Kathryn Roe Eldridge, Esq. and Peter S. Fruin, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: September 29, 2020.
Claimants signed the Submission Agreement: October 1, 2020.

Statement of Answer filed on or about: February 2, 2021.
Respondent signed the Submission Agreement: February 2, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence, violation of FINRA Rule 2010, suitability, and failure to supervise. The causes of action relate to Claimants’ allegations that they suffered catastrophic losses in their accounts by Respondent forcing their financial advisor to resign without creating a plan to handle their investment portfolios.

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 at least \$5,000,000.00; interest at the statutory rate; attorneys’ fees; expert fees; forum fees; punitive damages; treble damages; and such other and further relief as the Panel deems just and proper.

In the Statement of Answer, Respondent requested that the Panel reject Claimants’ Statement of Claim in its entirety.

At the hearing, all Claimants, except Lura, Thornton, E. Case and V. Case requested a combined total of \$4,338,898.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 16, 2021, Claimants filed a motion to have this arbitration heard via Zoom videoconference (“Motion for Zoom Hearing”). On January 3, 2022, Respondent filed a response in opposition to the Motion for Zoom Hearing. On January 4, 2022, Claimants filed a reply brief in support of their Motion for Zoom Hearing. In an Order dated January 7, 2022, the Panel granted the Motion for Zoom Hearing.

On January 11, 2022, Claimants filed a Motion to Withdraw Certain Claimants Without Prejudice (“Motion to Withdraw”) requesting that Lura, Thornton, E. Case, and V. Case be withdrawn from the case. On January 20, 2022, Respondent filed a Response in Opposition to Claimants’ Motion to Withdraw. On January 23, 2022, Claimants filed a Reply Brief in Further Support of Motion to Withdraw. On January 31, 2022, the Panel heard oral arguments on the Motion to Withdraw. In an Order dated January 31, 2022, the Panel dismissed Lura’s, Thornton’s, E. Case’s, and V. Case’s claims with prejudice. The case continued with the remaining Claimants (“Remaining Claimants”).

On January 18, 2022, Respondent filed an Emergency Motion for Sanctions for Failure to Comply with Discovery Order (“Motion for Sanctions”), which included a request to dismiss the case. On January 24, 2022, Claimants filed a response in opposition to the Motion for Sanctions (“Opposition”). On January 28, 2022, Respondent filed a reply to the Opposition. On January 31, 2022, the Panel heard oral arguments on the Motion for Sanctions. In an Order dated January 31, 2022, the Panel addressed the Motion for Sanctions by delaying the beginning of the hearing by one week to enable Respondent and Claimants to integrate any additional discovery production into their hearing preparation and denying Respondent’s request to dismiss the case.

On January 25, 2022, Respondent filed a Motion to Strike Claimants’ Negligent Misrepresentation and Missouri Securities Act Claims that were asserted in Claimants’ prehearing brief (“Motion to Strike”). On January 28, 2022, Claimants filed an Opposition to the Motion to Strike. On January 31, 2022, Respondent filed a Reply in Support of the Motion to Strike and additional materials in connection to its Motion for Sanctions and Motion to Strike. On January 31, 2022, the Panel heard oral arguments on the Motion to Strike. In an Order dated January 31, 2022, the Panel ordered Respondent to provide a red-lined version of what it wished to be struck from Claimants’ pre-hearing brief. On February 2, 2022, the Remaining Claimants filed an Opposition to the Motion to Strike Red Lined Brief. On February 3, 2022, Respondent filed a Further Reply in Support of its Motion to Strike. In an Order dated February 4, 2022, the Panel denied the Motion to Strike.

During the hearing, at the conclusion of Remaining Claimants’ case-in-chief, Respondent made an oral Motion for a Directed Verdict (“Motion for Directed Verdict”) requesting that the case be dismissed. On the same date, the Remaining Claimants filed their opposition to Motion for Directed Verdict. The Panel heard oral arguments on the Motion for Directed Verdict. In an

Order dated March 1, 2022, the Panel dismissed the following causes of action with prejudice: failure to supervise/negligent supervision, suitability, Missouri Securities Act Violation, and negligence. The Remaining Claimants' causes of action of breach of fiduciary duty and negligent misrepresentation were not dismissed.

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. Remaining Claimants' claims are denied in their entirety.
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 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	= \$ 2,250.00
--------------------------	---------------

**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	= \$ 4,025.00
Member Process Fee	= \$ 7,000.00

Late Pre-Hearing Cancellation Fees

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

March 18, 2021, cancellation requested by the parties	WAIVED
November 22, 2021, cancellation requested by the parties	= \$ 100.00
<hr/>	
Total Late Pre-Hearing Cancellation Fees	= \$ 100.00

The Panel has assessed \$50.00 of the late pre-hearing cancellation fees jointly and severally to Claimants.

The Panel has assessed \$50.00 of the late pre-hearing cancellation fees to Respondent.

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 a single Arbitrator @ \$450.00/session	= \$	900.00
Pre-Hearing Conferences: November 16, 2021	1 session	
December 29, 2021	1 session	

Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	4,500.00
Pre-Hearing Conferences: February 11, 2021	1 session	
January 31, 2022	1 session	
February 9, 2022	1 session	

Thirty-One (31) hearing sessions @ \$1,500.00/session	= \$	46,500.00
Hearings:		
February 14, 2022	2 sessions	
February 15, 2022	2 sessions	
February 16, 2022	2 sessions	
February 17, 2022	2 sessions	
February 18, 2022	2 sessions	
February 22, 2022	2 sessions	
February 23, 2022	2 sessions	
February 24, 2022	2 sessions	
February 25, 2022	2 sessions	
February 28, 2022	2 sessions	
March 1, 2022	1 session	
March 4, 2022	2 sessions	
March 7, 2022	2 sessions	
March 8, 2022	2 sessions	
March 9, 2022	2 sessions	
March 11, 2022	2 sessions	

Total Hearing Session Fees	= \$	51,900.00
----------------------------	------	-----------

The Panel has assessed \$1,950.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$24,000.00 of the hearing session fees jointly and severally to Remaining Claimants.

The Panel has assessed \$25,950.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Leah Murray Albert	-	Public Arbitrator, Presiding Chairperson
James M. Stern	-	Public Arbitrator
David E. Crawford	-	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

Leah Murray Albert

Leah Murray Albert
Public Arbitrator, Presiding Chairperson

03/20/2022

Signature Date

James M. Stern

James M. Stern
Public Arbitrator

03/16/2022

Signature Date

David E. Crawford

David E. Crawford
Public Arbitrator

03/16/2022

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.

March 21, 2022

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