

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Joseph McCormick IRA

Case Number: 20-03407

vs.

Respondent  
USA Financial Securities Corporation

Hearing Site: Wilmington, Delaware

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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 Joseph McCormick IRA: Michael S. Hill, Esq., Menzer & Hill, P.A., Boca Raton, Florida\*.

For Respondent USA Financial Securities Corporation: Samuel E. Cohen, Esq., Marshall Dennehey Warner Coleman & Goggin, Philadelphia, Pennsylvania.

\*FINRA recorded the appearance of Claimant's counsel at the time of filing of the Statement of Claim. Counsel's representation of Claimant may have ended with the parties' settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant's counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: September 30, 2020.

Joseph McCormick IRA signed the Submission Agreement: September 30, 2020.

Statement of Answer filed by Respondent on or about: December 21, 2020.

USA Financial Securities Corporation signed the Submission Agreement: December 21, 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 damage; and vicarious & control person liability.

The causes of action relate to investments in Franklin Square Capital Corporation II (“FSKR”), Inland Real Estate Income Trust (“INLAND”), and Healthcare Trust, Inc. (“HTI”).

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 \$130,000.00; statutory damages pursuant to state laws: (a) recessionary damages; (b) lost opportunity damages; (c) accrued statutory interest, and (d) 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 the Panel dismiss this matter, with prejudice.

Respondent filed a request for expungement, on behalf of Unnamed Party Mark Meloro, of all references to this matter (Occurrence Number 2156692), as well as Occurrence Number 2119128, from Central Registration Depository (“CRD”) registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On September 24, 2021, Claimant filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On September 24, 2021, Respondent requested that this matter remain open for a motion for expungement to be filed on behalf of Unnamed Party Mark Meloro (CRD Number 326110).

On October 12, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Party Mark Meloro, to which no response was filed.

On December 29, 2021, Respondent advised that the customer in Occurrence Number 2119128 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded hearing by videoconference on January 21, 2022, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Unnamed Party Mark Meloro.

Claimant and counsel did not participate in the expungement hearing and did not oppose the request for expungement.

The customer in Occurrence Number 2119128 also did not participate in the expungement hearing. The Panel found that the customer had notice of the expungement request and hearing.

The Panel reviewed Unnamed Party Mark Meloro's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Panel also reviewed the settlement documentation for Occurrence Number 2156692, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Unnamed Party Mark Meloro's did not contribute to the settlement amount.

The Panel also reviewed the settlement documentation Occurrence Number 2119128, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement. The Panel noted that Unnamed Party Mark Meloro paid the settlement amount. The Panel however recommends expungement of this occurrence since the settlement was paid to avoid the cost of arbitration.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings, Unnamed Party Mark Meloro's testimony, the settlement agreements, and other exhibits.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2156692) from registration records maintained by the CRD for Unnamed Party Mark Meloro (CRD Number 326110) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Mark Meloro must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (“Code”), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

The claim asserted that the alternate investments were high risk, and high commissions. Neither was true. There were no commissions charged. Claimant was an experienced investor and had signed numerous documents related to the alternative investments at issue. The Claimant is still holding these investments in his accounts with a different broker. Additionally, these investments were made in 2014 and 2015. Claimant withdrew his accounts from Mark Meloro’s firm in 2015. Shortly after that, Claimant emailed Mr. Meloro that he thought Mr. Meloro was doing a good job. Claimant did not complain about anything and indicated he wanted to return Mark Meloro. The Claimant decided he wanted to manage his investments. Five years after ending his relationship with Mr. Meloro, Claimant filed this arbitration claim.

2. The Panel recommends the expungement of all references to Occurrence Number 2119128 (FINRA Case Number 20-03914) from registration records maintained by the CRD for Unnamed Party Mark Meloro (CRD Number 326110) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Mark Meloro must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (“Code”), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

The customer complained about one of his investments with Mark Meloro (“Meloro”). The Statement of Claim stated that Meloro had the customer sell \$50,000.00 in tax free bonds to invest in FSIC III so that Meloro would get a high commission. It also implied that this was an overconcentration. In fact, there was no commission, and the investment was 10% of the overall account. It was demonstrated that the customer was a sophisticated investor and was well aware of the appropriateness of this investment. Additionally, under Meloro’s guidance, the customer’s account made \$48,000.00. The case was settled to avoid the costs of arbitration with Meloro paying \$5,500.00.

## FEES

Pursuant to the Code of Arbitration Procedure (“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
Expungement Filing Fee	=\$ 1,575.00

*\*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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent USA Financial Securities Corporation is assessed the following:

Member Surcharge	=\$ 1,700.00
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 Arbitrators, including a pre-hearing conference with the Arbitrators, 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: February 4, 2021	1 session
One (1) hearing session on expungement request @ \$1,125.00/session	=\$ 1,125.00
Hearing: January 21, 2022	1 session
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Total Hearing Session Fees	=\$ 2,250.00

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

The Panel has assessed \$1,687.50 of the hearing session fees to Respondent, which includes the fees for the expungement hearing session.

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

**ARBITRATION PANEL**

Julian F. Santos	-	Public Arbitrator, Presiding Chairperson
Linda J. Baer	-	Public Arbitrator
Clifford Jacob Pritchard, Sr.	-	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**

***Julian F. Santos***

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Julian F. Santos  
Public Arbitrator, Presiding Chairperson

***02/01/2022***

\_\_\_\_\_  
Signature Date

***Linda J. Baer***

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Linda J. Baer  
Public Arbitrator

***02/01/2022***

\_\_\_\_\_  
Signature Date

***Clifford Jacob Pritchard, Sr.***

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Clifford Jacob Pritchard, Sr.  
Public Arbitrator

***02/02/2022***

\_\_\_\_\_  
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.

February 02, 2022

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