

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michael Goldstein

Case Number: 20-03575

vs.

Respondents
Securian Financial Services, Inc.
Nikolai Matthew Papa
Michael Gerard Tate

Hearing Site: San Francisco, California

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 and Associated Persons

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Michael Goldstein (“Claimant”): Jeffrey S. Kob, Esq., Kob Law, Coronado, California.*

For Respondents Securian Financial Services, Inc. (“Securian Financial”), Nikolai Matthew Papa (“Papa”), and Michael Gerard Tate (“Tate”): Chad Weaver, Esq., Freeman Mathis & Gary, LLP, Seal Beach, California.

Hereinafter, Securian Financial, Papa and Tate are collectively referred to as “Respondents”.

*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: October 28, 2020.
Claimant signed the Submission Agreement: October 13, 2020.

Statement of Answer filed by Securian Financial on or about: January 22, 2021.
Statement of Answer filed by Papa and Tate on or about: January 22, 2021.

Securian Financial signed the Submission Agreement: January 26, 2021.
Papa and Tate signed the Submission Agreement: November 17, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: fraud; misleading statements; misleading omissions of material information; just and equitable principles of trade; breach of fiduciary duty; negligent misrepresentation; negligence; breach of contract; failure to supervise; and elder abuse. The causes of action relate to various annuity transactions, including Allianz Life Insurance, Lincoln Benefit Life Insurance Contract, and Jackson National Life Annuities ("Annuity Transactions").

In the Statement of Answer, Securian Financial denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In their Statement of Answer, Papa and Tate denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in an amount to be proven at hearing but no less than \$111,000.00 consisting of surrender charges, unnecessary taxes and elevated personal tax rate;
2. Disgorgement of commissions, fees and other forms of compensation paid to Respondents in an amount to be proven at hearing;
3. Enhanced treble damages for Elder Abuse as provided by Cal Civ. Code section 3345;
4. Interest calculated at the rate of 10% from the date of each of the Annuity Transactions until any arbitration claim herein is paid in full;
5. Any and all equitable relief to be determined by the Panel to compensate Claimant for the adverse impact Respondents' actions have altered his retirement plan;
6. Attorneys' fees and costs of the action pursuant to Welfare and Institutions Code section 15657; and
7. Costs of arbitration, including forum fees, expert fees, filing fees and related expenses.

In the Statement of Answer, Securian Financial requested:

1. Claimant takes nothing by way of the Statement of Claim; and
2. Such other and further relief as the Panel deems just and proper.

In their Statement of Answer, Papa and Tate requested:

1. Claimant's claim be dismissed in its entirety;
2. Claimant takes nothing by way of his claim;
3. Costs and forum fees incurred in this action; and
4. Such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

Chairperson Robert James Favole was properly classified as public at the time of appointment to the Panel in this matter. In the interim, Chairperson Robert James Favole's arbitrator classification changed to nonpublic.

On December 3, 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 December 21, 2021, Papa and Tate filed a Motion for Expungement, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on January 21, 2022, so the parties could present oral argument and evidence on Papa and Tate's requests for expungement.

Claimant did not participate in the expungement hearing.

The Panel reviewed Papa's and Tate's BrokerCheck® Reports.

The Panel also reviewed the settlement documentation, 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 Papa and Tate did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's Statement of Claim; Securian Financial's Statement of Answer, Papa and Tate's Statement of Answer; Motion for Expungement and all exhibits; and Papa's and Tate's BrokerCheck® Reports.

AWARD

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

The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2104764) from registration records maintained by the CRD for Respondent Nikolai Matthew Papa (CRD Number 5767364) with the understanding that, pursuant to Notice to Members 04-16, Respondent Nikolai Matthew Papa must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directives.

The Panel also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2080521) from registration records maintained by the CRD for Respondent Michael Gerard Tate (CRD Number 1349111) with the understanding that, pursuant to Notice to Members 04-16, Respondent Michael Gerard Tate 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 finding of fact:

The claim, allegation, or information is false.

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

The allegations in the Statement of Claim were contradicted by documents and credible testimony from Papa and Tate.

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
Expungement Filing Fee for Nikolai Matthew Papa	= \$	1,575.00
Expungement Filing Fee ofr Michael Gerard Tate	= \$	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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Securian Financial is assessed the following:

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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

October 25-28, 2021, postponement requested by Parties	=	Waived
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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 10, 2021	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00

Hearing: January 21, 2022 1 session

Total Hearing Session Fees = \$ 2,250.00

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

The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,125.00 of the hearing session fees jointly and severally to Papa and Tate.

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

ARBITRATION PANEL

Robert James Favole	-	Non-Public Arbitrator, Presiding Chairperson
Sarah Jane Militello	-	Public Arbitrator
Michael Zatkan	-	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

Robert James Favole

Robert James Favole
Non-Public Arbitrator, Presiding Chairperson

02/18/2022

Signature Date

Sarah Jane Militello

Sarah Jane Militello
Public Arbitrator

02/18/2022

Signature Date

Michael Zatkan

Michael Zatkan
Public Arbitrator

02/18/2022

Signature Date

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February 18, 2022

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