

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Robert Caswell

Case Number: 20-03577

vs.

Respondents
WestPark Capital, Inc. and
Lawrence John Fawcett, Jr.

Hearing Site: Des Moines, Iowa

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 Person

REPRESENTATION OF PARTIES

For Claimant Robert Caswell (“Claimant”): Kevin P. Krupnick, The Krupnick Firm, Glen Cove, New York.

For Respondent WestPark Capital, Inc. (“Westpark”): Julie E. Kamps, Esq., WestPark Capital Financial Services, LLC, Newport Beach, California.

Respondent Lawrence John Fawcett, Jr. (“Fawcett”) did not appear.

CASE INFORMATION

Statement of Claim filed on or about: October 21, 2020.
Claimant signed the Submission Agreement: October 18, 2020.

Statement of Answer filed by WestPark on or about: January 22, 2021.
WestPark signed the Submission Agreement: January 27, 2021.

Fawcett did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: unsuitability, churning, unauthorized trading, fraud, negligent misrepresentation, omissions, violations of Securities Law, breach of fiduciary duty, breach of covenants of good faith, breach of fair dealings, negligent supervision, breach of contract, violation of Section 20 of the Securities Exchange Act of 1934, violation of various FINRA Rules, failure to supervise, and unjust

enrichment. The causes of action related to Claimant's allegation that he was induced to purchase speculative stocks without proper stop losses or a defined exit plan. Claimant further alleged that he was also pushed to make unsuitable, private placement investments in Atrinsic, Inc. and Miramar, Inc.

Unless specifically admitted in the Statement of Answer, WestPark denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award of \$84,911.89, inclusive of punitive damages; unjust enrichment/disgorgement of commissions and fees; reasonable attorneys' fees; costs, including expert and witness fees; and such other further and different relief that the Arbitrator may deem appropriate.

In the Statement of Answer, WestPark requested that Claimant's claims be denied in their entirety, expungement of this claim from registration records maintained by the Central Registration Depository, attorneys' fees, forum fees, costs and expenses, and such other and further relief as the Arbitrator deems necessary.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Fawcett did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

Fawcett also did not file a Statement of Answer. The Arbitrator determined that Fawcett was served with the Claim Notification letter dated October 21, 2020 by regular mail and FedEx, as evidenced by the tracking information available online, and the Overdue Notice (including the Statement of Claim) dated December 10, 2020 by regular mail and FedEx, as evidenced by the tracking information available online. The Arbitrator also determined that Fawcett was served with the Notification of Arbitrator dated January 5, 2021 by FedEx, as evidenced by the tracking information available online.

The Claim Notification letter notified Fawcett that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Fawcett failed to register for the DR Portal.

The Arbitrator determined that Fawcett is, therefore, bound by the Arbitrator's ruling and determination.

On April 13, 2021, Claimant filed a notice of settlement with WestPark. Therefore, the Arbitrator made no determination with respect to any of the relief requests related to Westpark.

On May 13, 2021, Claimant filed a Motion for Default Proceedings Against Fawcett pursuant to Rule 12801 of the Code ("Request for Default"). Accordingly, the claims against Fawcett proceeded pursuant to Rule 12801 of the Code.

In an Order dated May 27, 2021, the Arbitrator directed Claimant to submit any additional evidence or affidavits that may support his claim. On June 21, 2021, Claimant submitted an Affidavit.

AWARD

After considering the pleadings and all submissions regarding Claimant's Request for Default, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

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	= \$	975.00
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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, WestPark is assessed the following:

Member Surcharge	= \$	1,100.00
Member Process Fee	= \$	2,250.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: January 27, 2021	1 session	

Decision on the papers:	= \$	300.00
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Total Hearing Session Fees	= \$	750.00
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The Arbitrator has assessed \$525.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$225.00 of the hearing session fees jointly and severally to WestPark and Fawcett.

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

ARBITRATOR

Jonathan B. Gilbert

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Sole 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.

Arbitrator's Signature

Jonathan B. Gilbert

Jonathan B. Gilbert
Sole Public Arbitrator

06/22/2021

Signature Date

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June 22, 2021

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