

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michael Braun

Case Number: 20-04089

vs.

Respondent
Guggenheim Funds Distributors, LLC

Hearing Site: Indianapolis, Indiana

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

Claimant Michael Braun (“Claimant”) appeared pro se.

For Respondent Guggenheim Funds Distributors, LLC (“Respondent”): Christopher S. Antonow, Esq., Guggenheim Funds Distributors, LLC, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: February 25, 2021.
Claimant signed the Submission Agreement: December 15, 2020.

Statement of Answer filed on or about: March 2, 2021.
Respondent signed the Submission Agreement: March 3, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant alleged that he called and switched to long versions of Guggenheim Funds but his request was overlooked and not invoiced correctly. Claimant further alleged that he did not receive quarterly statements from Respondent.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$116,000.00 plus interest.

In the Statement of Answer, Respondent did not request relief.

OTHER ISSUES CONSIDERED AND DECIDED

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

On March 2, 2021, Respondent filed a Motion to Dismiss Claimant’s Statement of Claim Under FINRA Rule 12504 on the Basis That the Claims Were Previously Released (“Motion to Dismiss”). On May 21, 2021, Claimant filed a Memorandum in Opposition to the Motion to Dismiss and additional submissions in support thereof. On May 24, 2021, Respondent filed a Reply to the Memorandum in Opposition to the Motion to Dismiss (“Reply”). On June 3, 2021, Claimant filed a sur-reply and additional submissions in support thereof. On July 3, 2021 and August 5, 2021, Claimant filed additional submissions in opposition to dismissal. On September 8, 2021, the Panel heard oral arguments on the Motion to Dismiss. The Panel grants the Motion to Dismiss herein on the grounds that Claimant unequivocally stated, during oral arguments, that his claim in this matter is identical to the claim that was subject to the Settlement Agreement presented by Respondent. Further, Claimant acknowledged signing the Settlement Agreement and receiving the check specified therein.

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

AWARD

After considering the pleadings, the Motion to Dismiss and responses thereto, and the arguments presented at the pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant’s claims are dismissed in their entirety with prejudice pursuant to Rule 12504(a)(6)(A) of the Code of Arbitration Procedure (“Code”).

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

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant’s filing fee of \$ 1,425.00. Upon conclusion of the matter, the Panel determined to assess the fee.

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	= \$	1,700.00
Member Process Fee	= \$	3,250.00

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: June 21, 2021	1 session	
September 8, 2021	1 session	
Total Hearing Session Fees	= \$	2,250.00

The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

Gerald W. Hepp	-	Public Arbitrator, Presiding Chairperson
Philip J. Glick	-	Public Arbitrator
David E. Bailey	-	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

Gerald W. Hepp

Gerald W. Hepp
Public Arbitrator, Presiding Chairperson

09/14/2021

Signature Date

Philip J. Glick

Philip J. Glick
Public Arbitrator

09/14/2021

Signature Date

David E. Bailey

David E. Bailey
Public Arbitrator

09/15/2021

Signature Date

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September 15, 2021

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