

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

John W. Boucher, III

Case Number: 21-00080

vs.

Respondents

Worden Capital Management LLC
Jamie John Worden
Gregory Patrick Bodkin
David Weisberg

Hearing Site: Boston, Massachusetts

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 administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant John W. Boucher, III (“Boucher”): Jennifer Tarr, Cold Spring Advisory Group, New York, New York.

For Respondent Worden Capital Management LLC (“WCM”): Jamie Worden, Lloyd Harbor, New York.

Jamie John Worden (“Worden”) appeared pro se.

For Respondent Gregory Patrick Bodkin (“Bodkin”): Charles M. O'Rourke, Esq., Woodbury, New York.

David Weisberg (“Weisberg”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: January 13, 2021.

Boucher signed the Submission Agreement: January 13, 2021.

Joint Statement of Answer filed by Respondents WCM, Worden, and Bodkin on or about: April 15, 2021.

WCM signed the Submission Agreement: January 27, 2022.
Worden signed the Submission Agreement: January 27, 2022.
Bodkin signed the Submission Agreement: January 27, 2022.

Weisberg 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: churning for commissions and quantitative unsuitability (fraud) Rules 2111 and Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5; violation of standards of commercial honor and principles of trade (Rule 2010); and lack of reasonable supervision (Rule 3010). The causes of action relate to unspecified securities.

Unless specifically admitted in the Statement of Answer, Respondents WCM, Worden and Bodkin 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 in the amount of \$47,629.58 or that amount of damages the Panel deems appropriate; interest at the statutory rate, as provided by the law; and reimbursement of reasonable costs.

In the Joint Statement of Answer, Respondents WCM, Worden, and Bodkin requested that all claims be denied; costs; expungement of this matter from the Central Registration Depository ("CRD") records for Worden and Bodkin; and any and all other further relief as deemed just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

Weisberg 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.

Weisberg did not file a Statement of Answer. The Arbitrator determined that Weisberg was served with the Claim Notification letter dated January 15, 2021, by regular mail and certified mail, and the Overdue Notice (including the Statement of Claim) dated March 9, 2021, by regular and certified mail. The Arbitrator also determined that Weisberg was served with the Notification of Arbitrator dated March 31, 2021, by regular and certified mail.

The Claim Notification letter notified Weisberg 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. Weisberg failed to register for the DR Portal.

The Arbitrator reviewed Worden and Bodkin's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator noted that the dispute related to Occurrence Numbers 2110875 and 2110938 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Worden and Bodkin's BrokerCheck® Reports, the pleadings, parties' testimonies, and the exhibits.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein are denied.
3. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2110875) from registration records maintained by the CRD for Jamie John Worden (CRD Number 4637404) with the understanding that, pursuant to Notice to Members 04-16, Jamie John Worden 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 Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

Claimant alleged unsuitable transactions and excessive trading. As to unsuitability, Claimant testified that he was investing to save for retirement. However, his account documents specified "speculation" as his investment goal, and he signed a margin agreement. Neither of these documents were revised or withdrawn nor was there any evidence that Claimant objected to the trades. Moreover, Claimant was sophisticated, having a degree in business administration and familiar with high-risk transactions. The equity investments for Claimant's account and use of margin were consistent with speculation, and, except for two purchases, later ratified by the Claimant, all purchases and sales were approved by the Claimant. Therefore, the claim of unsuitability was false.

With respect to excessive trading, while there was substantial turnover in Claimant's account, the Claimant had a non-discretionary account and maintained control over it, approving purchases and directing sales. At any time, he could have said "stop," and he knew he could have, but he did not. Therefore, the claim of excessive trading is false.

4. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2110938) from registration records maintained by the CRD for Gregory Patrick Bodkin (CRD Number 3008389) with the understanding that, pursuant to Notice to Members 04-16, Gregory Patrick Bodkin 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 Arbitrator has made the following Rule 2080 affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

Claimant alleged unsuitable transactions and excessive trading. As to unsuitability, Claimant testified that he was investing to save for retirement. However, his account documents specified "speculation" as his investment goal, and he signed a margin agreement. Neither of these documents were revised or withdrawn nor was there any evidence that Claimant objected to the trades. Moreover, Claimant was sophisticated, having a degree in business administration and familiar with high-risk transactions. The equity investments for Claimant's account and use of margin were consistent with speculation, and, except for two purchases, later ratified by the Claimant, all purchases and sales were approved by the Claimant. Therefore, the claim of unsuitability was false.

With respect to excessive trading, while there was substantial turnover in Claimant's account, the Claimant had a non-discretionary account and maintained control over it, approving purchases and directing sales. At any time, he could have said "stop," and he knew he could have, but he did not. Therefore, the claim of excessive trading is false.

Additionally, Bodkin did not trade for Claimant's account, was not in the supervisory chain over Claimant's account, and did not have responsibility for reviewing client accounts. Therefore, Bodkin was not involved in the alleged violations.

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	= \$ 600.00
Worden's Expungement Filing Fee	= \$1,575.00
Bodkin's 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, Worden Capital Management, LLC is assessed the following:

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

Late Pre-Hearing Cancellation Fees

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

August 10, 2021, cancellation requested by the parties	= \$ 100.00
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Total Late Pre-Hearing Cancellation Fees	= \$ 100.00
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The Arbitrator has assessed the total late pre-hearing cancellation fees jointly and severally to Respondents.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$ 900.00
Pre-Hearing Conferences: April 26, 2021	1 session
September 20, 2021	1 session

Four (4) hearing sessions @ \$450.00/session	= \$ 1,800.00
Hearings: October 20, 2021	1 session
November 17, 2021	1 session
January 4, 2022	2 sessions

Total Hearing Session Fees	= \$ 2,700.00
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The Arbitrator has assessed \$900.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$1,350.00 of the hearing session fees jointly and severally to Respondents.

The Arbitrator has waived the hearing session fees for the November 17, 2021, hearing.

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

ARBITRATOR

Steven S. Manos

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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

Steven S. Manos

Steven S. Manos
Sole Public Arbitrator

01/28/2022

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.

January 31, 2022

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