

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Gary N. Barnes

Case Number: 21-00966

vs.

Respondents
WFG Investments, Inc.
International Assets Advisory, LLC
Damian Marlon Bell

Hearing Site: Birmingham, Alabama

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. Members and Associated Person

This matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

REPRESENTATION OF PARTIES

For Claimant Gary N. Barnes (“Claimant”): Richard S. Frankowski, Esq. and Robert E. Norton, Esq., The Frankowski Firm, Birmingham, Alabama.

Respondent WFG Investments, Inc. (“WFG”) did not enter an appearance.

For Respondents International Assets Advisory, LLC (“IAA”) and Damian Marlon Bell (“Bell”): Alan M. Wolper, Esq. and Jonathan D. Drews, Esq., Ulmer & Berne, LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: April 12, 2021.

Claimant signed the Submission Agreement: April 12, 2021.

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

Statement of Answer filed by Respondents IAA and Bell on or about: June 2, 2021.

Respondent IAA signed the Submission Agreement: June 14, 2021.

Respondent Bell signed the Submission Agreement: June 14, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: failure to supervise and investigate; breach of fiduciary duty and respondeat superior; unsuitability; breach of contract; violations of Alabama Securities Act; common law claims; and ongoing fraud. The causes of action relate to the overconcentration of Claimant's retirement savings in unsuitably risky investments.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested that the Arbitrator order Respondents to pay Claimant damages of \$50,000.00, including but not limited to: all losses in the investments at issue; all charges to Claimant's accounts and commissions paid to Respondents; the lost earnings that the accounts would have earned if Claimant's money had been properly invested; rescission; the interest that Respondents promised Claimant on the investment at issue; pre-judgment interest at the maximum statutory interest rate on all losses sustained from the date of the transactions until the date of the award by the Arbitrator under applicable law; the full monetary benefit of any bargain that was entered into by Claimant and Respondents; and for punitive damages to be assessed by the Arbitrator to assure the investing public that, in the future, Respondents and their financial consultants will conduct their affairs to the highest integrity required of financial advisors. Additionally, Claimant requested that the Arbitrator order Respondents to pay the following, even if it causes the total amount awarded to exceed \$50,000.00: all costs of these proceedings, including the filing fee, forum fees, hearing session fees, and reasonable attorneys' fees under applicable statutory law and common law as well as under FINRA's Rules of Fair Practice; and pre-judgment and post-judgment interest at the maximum statutory interest rate.

In the Statement of Answer, Respondents IAA and Bell requested that the Arbitrator await Respondent IAA's and Bell's Motions to Dismiss, and at that time, dismiss Claimant's claims in their entirety, with costs of defense including reasonable attorneys' fees awarded against Claimant. Additionally, in the event the Arbitrator denies the Motions to Dismiss, Respondents IAA and Bell requested that Claimant's claims against Respondents IAA and Bell be denied on their merits at the time of the final hearing in this matter.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent WFG did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

Respondent WFG did not file a Statement of Answer. The Arbitrator determined that a sufficient effort was made to serve Respondent WFG with the Claim Notification letter dated April 13, 2021 by regular and certified mail, and the Overdue Notice (including the Statement of Claim)

dated June 25, 2021 by regular and certified mail, as evidenced by the signed signature cards on file.

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

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

AWARD

After considering the pleadings, the Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. FINRA Dispute Resolution Services shall retain the \$600.00 filing fee that Claimant deposited previously.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code:

1. Respondent WFG shall pay to FINRA Dispute Resolution Services the \$750.00 Member Surcharge and \$1,750.00 Member Process Fee previously invoiced.
2. Respondent IAA has paid to FINRA Dispute Resolution Services the \$750.00 Member Surcharge and \$1,750.00 Member Process Fee previously invoiced.

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

ARBITRATOR

Michael J. Ahlstrom

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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

Michael J. Ahlstrom

Michael J. Ahlstrom
Sole Public Arbitrator

11/17/2021

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.

November 17, 2021

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