

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Duane Goeden and Marion Goeden

Case Number: 21-00984

vs.

Respondents

Ameriprise Financial Services, Inc.

Hearing Site: Minneapolis, Minnesota

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: Customers vs. Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

Claimants Duane Goeden (“D. Goeden”) and Marion Goeden (“M. Goeden”) (collectively, “Claimants”) appeared pro se.

For Respondent Ameriprise Financial Services, Inc. (“Respondent”): Lawton R. Graves, Esq. and Eleanor M. Samuels, Esq., Murphy & Anderson, P.A., Jacksonville, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 14, 2021.

Claimants signed the Submission Agreement: April 13, 2021.

Statement of Answer filed on or about: June 3, 2021.

Respondent signed the Submission Agreement: May 18, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence, professional negligence, violations of law, unsuitable recommendations, negligent supervision, breach of contract, breach of fiduciary duty, and breach of securities industry rules and regulations. The causes of action related to Claimants’ allegations that Respondent sold them a high-commission, illiquid, risky investment, Corporate Capital Trust II, which was contrary to their investment objectives.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested general and compensatory damages of approximately \$10,000.00; lost opportunity costs; rescission of the improper investments; cost of proceedings; punitive damages in an amount according to proof; interest at the legal rate on all sums recovered; attorneys' fees and costs; and such other and further relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested the denial of the Statement of Claim with prejudice, together with an award of all reasonable forum costs and expenses, and other relief as the Panel deems just and proper.

Respondent filed a request for expungement, on behalf of Unnamed Party Gina Lee Rypkema ("Rypkema"), of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 8, 2021, Claimants filed a notice dismissal with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On July 28, 2021, Respondent filed a Motion for Expungement on behalf of Rypkema. On December 22, 2021, Claimants filed a response in opposition to the Motion for Expungement and reasserted the allegations contained in the Statement of Claimant.

The Panel conducted a recorded hearing by videoconference on January 11, 2022, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Rypkema.

D. Goeden participated in the expungement hearing and opposed the request for expungement. The Panel noted that while M. Goeden did not participate at the expungement hearing, M. Goeden did have notice of the expungement request and hearing.

The Panel reviewed Rypkema's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

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 Rypkema did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Rypkema's testimony, D. Goeden's testimony, Claimants' Statement of Claim, and Respondent's Exhibits 2-3, 5 and 7.

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

AWARD

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

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2126738) from registration records maintained by the CRD for Unnamed Party Gina Lee Rypkema (CRD Number 4394143) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Gina Lee Rypkema 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

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

The claim or information is false and clearly erroneous. The investment complained of was reasonable and suitable for Claimants. Rypkema was fully apprised of Claimants' financial situation and risk tolerances. She recommended the investment to diversify Claimants' holdings. Rypkema did not recommend the investment to "maximize her commissions and fees" as alleged. The documents make it clear that Claimants were informed that the investment was not liquid and had risks. Claimants were given the brochure and signed the subscription agreement all of which make it very clear that the investment was not liquid and involved risk. D. Goeden was a careful and experienced investor who testified that he looked at these documents and received the prospectus.

2. 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, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 325.00
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(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	= \$ 325.00
Member Process Fee	= \$ 3,750.00

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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: September 13, 2021 1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: January 11, 2022 1 session	
Total Hearing Session Fees	= \$ 2,250.00

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

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

ARBITRATION PANEL

Peter N. Thompson	-	Public Arbitrator, Presiding Chairperson
Kerry C. Koep	-	Public Arbitrator
James Martell Martin	-	Non-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

Peter N. Thompson

Peter N. Thompson
Public Arbitrator, Presiding Chairperson

01/21/2022

Signature Date

Kerry C. Koep

Kerry C. Koep
Public Arbitrator

01/22/2022

Signature Date

James Martell Martin

James Martell Martin
Non-Public Arbitrator

01/21/2022

Signature Date

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January 24, 2022

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