

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kathleen M. Marfiz

Case Number: 21-01282

vs.

Respondent
Isaac Cletus Wales

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: Customer vs. Associated Person

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

REPRESENTATION OF PARTIES

Claimant Kathleen M. Marfiz (“Claimant”) appeared pro se.

For Respondent Isaac Cletus Wales (“Respondent”): Niels P. Murphy, Esq. and Lawton R. Graves, Esq., Murphy & Anderson, P.A., Jacksonville, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 17, 2021.

Claimant signed the Submission Agreement: May 6, 2021.

Response to Statement of Answer filed on or about: July 12, 2021.

Statement of Answer filed on or about: July 7, 2021.

Respondent signed the Submission Agreement: July 8, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: churning; excessive and unsuitable trading; and fraudulent concealment. The causes of action related to Claimant’s allegation that Respondent recommended unsuitable investments in business development companies and real estate investment trusts, failed to recommend that Claimant exit from these investments when the opportunity arose, and charged Claimant fees which were not warranted.

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

In the Response to Statement of Answer, Claimant disputed Respondent's statements and posed queries.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$50,000.00 in compensatory damages.

In the Statement of Answer, Respondent requested expungement of all references to this matter from Central Registration Depository ("CRD") registration records; denial of the Statement of Claim, with prejudice; an award of all reasonable forum costs and expenses; and other relief as the Arbitrator deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded, telephonic hearing on November 11, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement.

Claimant participated in the expungement hearing and opposed the request for expungement.

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

The Panel noted that this matter did not settle and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied on the following documentary or other evidence: Claimant's testimony, Respondent's testimony, and Respondent's exhibits.

AWARD

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

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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. Respondent is liable for and shall pay to Claimant the sum of \$300.00 to reimburse Claimant for half of the filing fee previously paid to FINRA Dispute Resolution Services.
4. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2092517) from registration records maintained by the CRD

for Respondent Isaac Cletus Wales (CRD Number 3259196) with the understanding that, pursuant to Notice to Members 04-16, Respondent Isaac Cletus Wales 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, the Arbitrator 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 Arbitrator has made the above Rule 2080 findings based on the following reasons:

Respondent and Claimant both testified under oath at the expungement hearing. Respondent gave a lengthy and detailed account of his dealings with Claimant and identified supporting documentation. By contrast, Claimant gave a statement which lacked detail in any significant way. She did not contradict his version of events in any material respect. Respondent accurately described Claimant as an investor with an above average level of sophistication and knowledge of the industry. The lack of liquidity in the portfolio appears to be Claimant's principal complaint, and this aspect of the investments was described to her thoroughly at the appropriate times. In addition, her claim described several unprofitable positions, one of which she sold prematurely, while the total portfolio was successful. Her statement of the alleged losses sustained and commissions paid was disproved conclusively. Respondent recommended appropriate investments given Claimant's background and stated objectives. I find that the claim against Respondent lacked any merit, was clearly erroneous, and in some respects, completely false.

5. Any and all relief not specifically addressed herein, including requests for punitive damages and attorneys' fees, if any, 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	= \$	600.00
Expungement Filing Fee	= \$	1,600.00

**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 Respondent's firm, Ameriprise Financial Services, Inc. is assessed the following:

Member Surcharge	= \$	750.00
Member Process Fee	= \$	1,750.00

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) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: November 11, 2021 1 session		
<hr/> Total Hearing Session Fees	= \$	1,150.00

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

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

11/15/2021

Signature Date

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November 15, 2021

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