

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Christopher Briggs

Case Number: 21-01380

vs.

Respondent
Geneos Wealth Management, Inc

Hearing Site: Phoenix, Arizona

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

REPRESENTATION OF PARTIES

For Claimant Christopher Briggs (“Claimant”): Kristian Kraszewski, Esq., Kyros Law, Miami, Florida.

For Respondent Geneos Wealth Management, Inc (“Respondent”): Victoria H. Buter, Esq., Kutak Rock LLP, Omaha, Nebraska.

*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: May 27, 2021.

Claimant signed the Submission Agreement: May 27, 2021.

Respondent did not file a Statement of Answer.

Respondent signed the Submission Agreement: October 12, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; violation of industry rules; breach of contract; negligence; and negligent supervision. The causes of action relate to Claimant’s investment in the LJM Capital Preservation Fund (“LJM Fund”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Damages according to proof, but not less than \$40,000.00;
2. Interest on Claimant's losses or any award made herein, at the highest applicable rate;
3. Claimant's costs and expenses, to the extent recoverable under any rule, regulation or doctrine of law; and
4. Such other and additional damages and relief (whether disgorgement of profits, unjust enrichment, restitution, non-monetary, declaratory judgment, equitable or otherwise) as may be shown at hearing and which the Arbitrator deems just and equitable.

Respondent filed a request for expungement on behalf of Unnamed Party Michael John Osland ("Osland"), 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 Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On August 24, 2021, Claimant filed a notice of voluntary dismissal with prejudice. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the Statement of Claim.

On September 9, 2021, Respondent filed a Motion for Expungement on behalf of Osland, to which no response was filed.

The Arbitrator conducted a recorded, telephonic hearing on November 15, 2021, so the parties could present oral argument and evidence on Osland's request for expungement.

Claimant did not participate in the expungement hearing and did not oppose the request for expungement.

The Arbitrator reviewed Osland's BrokerCheck® Report.

The Arbitrator 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 Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Osland did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Respondent's exhibits, specifically Claimant's New Account Application form; and Osland's testimony.

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. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2135824) from registration records maintained by the CRD for Unnamed Party Michael John Osland (CRD Number 1791642) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Michael John Osland 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 factually impossible or clearly erroneous.

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

The testimony and evidence in the record established that the LJM Fund increased its leverage, and therefore its risk, without disclosing the information in a prospectus. Further, the evidence shows that Respondent and Osland did perform due diligence before recommending the LJM Fund to Claimant; despite this, they could not discover the increased risk of the LJM Fund as that information had not been made available by the LJM Fund. Osland testified that he read every available piece of information regarding the LJM Fund before recommending it as an investment to Claimant. The LJM Fund was rated as 5-star fund at the time it was recommended as an appropriate investment for Claimant. Claimant is a sophisticated individual who had 25 years of investment experience at the time he created an account with Respondent. Claimant accepted a moderate amount of risk when he created his account, and acknowledged that he could lose money as a result of his investments.

2. Any and all claims for relief not specifically addressed herein 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 a party, Respondent is assessed the following:

Member Surcharge	= \$	750.00
Member Process Fee	= \$	3,850.00

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) pre-hearing session with a single Arbitrator @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: October 11, 2021	1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: November 15, 2021	1 session	

Total Hearing Session Fees	= \$	2,300.00
----------------------------	------	----------

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

Wayne Reid Nelson

-

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

Wayne Reid Nelson

Wayne Reid Nelson
Sole Public Arbitrator

11/18/2021

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 19, 2021

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