

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Fredrick Allen Schiffler

Case Number: 21-02259

vs.

Respondent
Joseph Morris Thurnherr

Hearing Site: Boise, Idaho

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

For Claimant Fredrick Allen Schiffler (“Claimant”): Kevin P. Krupnick, Esq., The Krupnick Firm, Glenn Cove, New York.

Respondent Joseph Morris Thurnherr (“Respondent”) did not enter an appearance.

CASE INFORMATION

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

Claimant signed the Submission Agreement: May 11, 2021.

Respondent 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: suitability; unauthorized trading; fraud; misrepresentation; violations of securities laws; breach of fiduciary duty; breach of covenants of good faith and fair dealing; negligent supervision; breach of contract; violations of Section 20 of the Securities Exchange Act of 1934; failure to supervise; and unjust enrichment. The causes of action relate Respondent’s alleged mismanagement of Claimant’s investment accounts with Spartan Capital Securities, LLC.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Damages in the amount of \$75,000.00 or an amount to more fully be ascertained by discovery, inclusive of punitive damages and unjust enrichment/disgorgement of commissions and fees;
2. Reasonable attorney' fees;
3. Costs, including expert and witness fees; and
4. Such other further and different relief that the Arbitrator may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant's claim against Respondent was originally brought in FINRA Arbitration Number 21-01244 ("Master Case"). On August 12, 2021, Claimant filed a motion for default proceeding under Rule 12801 of the Code of Arbitration Procedure ("Code"), to which no response was filed. Pursuant to Rule 12801 of the Code, the Chairperson appointed in FINRA Arbitration Number 21-01244 became the sole arbitrator to decide this matter.

Respondent did not file a Statement of Answer or 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.

The Arbitrator determined that Respondent was served with the Claim Notification letter dated May 12, 2021, and the Overdue Notice (including the Statement of Claim) dated July 14, 2021, by FedEx mail, as evidenced by the FedEx tracking information available online. The Notification of Arbitrator dated August 6, 2021 was sent to the same address of Respondent by regular and FedEx mail and both were returned to FINRA Office of Dispute Resolution Services. On September 7, 2021, the U.S. post office sent Respondent a courtesy copy of the document to Respondent's alternative address. The courtesy copy was not returned to date.

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

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

The Arbitrator has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

FINDINGS

Respondent is permanently barred from FINRA and this is a Rule 12801 default proceeding on the papers only. Respondent has not filed an Answer. The Statement of Claim filed in the Master Case included Respondent, however, the Statement of Answer filed in the Master Case

excluded this Respondent from representation by an attorney. Thus, this is the default proceeding to which Respondent has not filed a Statement of Answer.

Claimant's claim in this default matter is denied because Claimant did not present, pursuant to the Arbitrator's specific request, a sufficient evidentiary basis or bases, e.g., New Customer Account Forms, declared risk tolerance, investment experience, etc., to meet the standard which would support rendering a Rule 12801 Default Award in Claimant's favor.

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. Any and all claims for relief not specifically addressed herein, including, but not limited to any requests for punitive damages, costs and attorneys' fees, are Denied.

ARBITRATOR

John J. Fitzpatrick, Jr.

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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

John J. Fitzpatrick, Jr.

John J. Fitzpatrick, Jr.
Sole Public Arbitrator

11/03/2021

Signature Date

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November 04, 2021

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