In the Matter of the Arbitration Between:

Claimants
Charles M. Prignano
Frances P. Prignano

vs.

Respondents
T. Rowe Price Investment Services, Inc.
Michele Pacitto, Jr.

Counter-Claimant
Michele Pacitto, Jr.

vs.

Counter-Respondents
Charles M. Prignano
Frances P. Prignano

Nature of the Disputes: Customers vs. Member and Associated Person; and Associated Person vs. Customers

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES


For Respondent T. Rowe Price Investment Services, Inc.: Priscilla A. Donovan, Esq., Donovan & Rainie, LLC, Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on or about: April 3, 2013.

Claimants signed the Submission Agreement: April 3, 2013.
Statement of Answer and Counterclaim filed by Respondent Pacitto on or about: June 3, 2013.

Statement of Answer filed by Respondent T. Rowe Price Investment Services, Inc. on or about: June 3, 2013.

Claimants’ Statement of Answer to Respondent Pacitto’s Counterclaim filed on or about: July 19, 2013.

Respondent T. Rowe Price Investment Services, Inc. signed the Submission Agreement: May 16, 2013.


**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, and violation of FINRA rules. The causes of action relate to Claimants’ allegation of unauthorized trades of unspecified investments made by Respondent Pacitto in Claimants’ E*TRADE account.

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

Unless specifically admitted in its Answer, Respondent T. Rowe Price Investment Services, Inc. denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Counterclaim, Respondent Pacitto asserted the following causes of action: abuse of process, intentional interference with employment, intentional interference with prospective business advantage, and extreme and outrageous conduct causing emotional distress. The causes of action relate to Respondent Pacitto’s allegation that Claimants’ claims were asserted to shift financial responsibility from Claimants’ own investment decisions, and to punish Respondent Pacitto and his family for alleged unwelcomed social encounters.

Unless specifically admitted in their Answer, Claimants denied the allegations made in the Counterclaim.

**RELIEF REQUESTED**

In the Statement of Claim, Claimants requested unspecified damages for loss of investment principle and income, loss of time and inconvenience, emotional distress and anxiety in the past and in the future, attorneys’ fees, interest and costs of these proceedings and such other and further relief as the Panel may find just and proper.

Respondent T. Rowe Price Investment Services, Inc. stated Claimants are not entitled to any damages, including but not limited to investment losses, or damages for loss of...
In the Statement of Answer and Counterclaim, Respondent Pacitto requested:

1. Claimants' claims be denied and dismissed in their entirety;
2. Economic damages, including attorneys' fees and litigation expenses, in amounts to be proven at the hearing;
3. Non-economic damages for emotional distress in amounts to be proven at the hearing;
5. Reasonable attorneys' fees pursuant to Colo. Rev. Stat. §13-17-102;
6. Pre-award and post-award interest on all damages awarded;
7. Reasonable attorneys' fees pursuant to contract on the grounds that, by both sides signing the Uniform Arbitration Agreement and requesting an award of attorneys' fees, Claimants have agreed to allow the Panel to award attorneys' fees to the prevailing party;
8. Costs of litigation including expert witness fees, copying costs, travel costs, and fees for service of process;
9. All forum fees, including hearing session fees, be assessed solely against the Claimants jointly and severally;
10. Expungement of this arbitration from Respondent Pacitto's Central Registration Depository record; and
11. All other legal and equitable relief that the Panel deems just.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

On March 25, 2014, Claimants filed a Notice of Dismissal of Respondent T. Rowe Price Investment Services, Inc.

The Panel considered Respondent Pacitto's request for expungement during the recorded in-person evidentiary hearing. The Panel reviewed the settlement agreement between Claimants and Respondent T. Rowe Price Investment Services, Inc. and considered the amount of payments made to any party and any other terms and conditions of settlement. The Panel finds the settlement between Claimants and Respondent T. Rowe Price Investment Services, Inc. was not conditioned upon an agreement not to oppose Respondent Pacitto's request for expungement.

The Panel has reviewed Respondent Pacitto's form U4 and U5 regulatory records provided by Respondent Pacitto's counsel. The Panel also reviewed Respondent Pacitto's FINRA BrokerCheck report having accessed the report on FINRA's website.

In recommending expungement, the Panel relied upon the testimony of the Claimant Charles M. Prignano, Respondent Pacitto, Claimants' expert witness, Sally Dillman, and Respondent Pacitto's wife. The Panel also relied upon Claimants' exhibits A through U, and Respondent Pacitto's exhibits 1 through 53, all stipulated to and admitted into evidence. The Panel further relied upon Claimants' pre-hearing and post-hearing briefs, with attached exhibits, and Respondent Pacitto's post-hearing brief and supporting
exhibits.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

**AWARD**

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

1. All claims by Claimants are denied in their entirety.

2. Claimant Charles M. Prignano is solely liable for and shall pay to Respondent Pacitto compensatory damages of $75,000.00.

3. Claimant Charles M. Prignano is solely liable for and shall pay to Respondent Pacitto punitive damages of $75,000.00 pursuant to Colo. Rev. Stat. §13-21-102(1)(a).

4. Claimant Charles M. Prignano is solely liable for and shall pay to Respondent Pacitto the sum of $250.00 as reimbursement for the non-refundable portion of the Counterclaim filing fee.

5. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Michele Pacitto, Jr.’s registration records maintained by the Central Registration Depository (“CRD”), with the understanding that pursuant to Notice to Members 04-16, Respondent Michele Pacitto, Jr. 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 Panel has made the following Rule 2080 affirmative findings of fact:

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

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

In this matter, all three prongs of FINRA Rule 2080, and requirements of FINRA Rule 12805, were clearly established by the evidence presented at the arbitration.
The allegations were clearly erroneous. For example, the Statement of Claim alleged that the trading in the E*TRADE accounts of the Claimants was done without the Claimants' permission or knowledge. That was one of many clearly erroneous allegations. Indeed, all of the trades were either made by Claimant Charles M. Prignano, or with the consent and knowledge of Claimant Charles M. Prignano.

The registered person, Respondent Pacitto, was not involved in an alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds. The trades complained of were all made by Claimant Charles M. Prignano himself, contrary to the allegations in the Statement of Claim. All of the other trades addressed in the arbitration, were either made by Claimant Charles M. Prignano himself, or with the consent and knowledge of Claimant Charles M. Prignano.

The claims, allegations and information alleged in the Statement of Claim were false. There was no fiduciary duty owed or breached, there was no negligence, and there was no violation of FINRA Rules by Respondent Pacitto. The Panel finds that the allegations against Respondent Pacitto were false, without factual merit and brought for an ulterior purpose.

Expungement is an extraordinary remedy that should be granted only under appropriate circumstances. Information should be expunged only when it has no meaningful investor protection or regulatory value. That is the situation with respect to the false claims brought in this matter against Respondent Pacitto. The Panel recommends that expungement be granted with regard to the allegations made in this arbitration by Claimants against Respondent Pacitto.

6. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

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

<table>
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<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Initial Claim Filing Fee</td>
<td>$1,250.00</td>
</tr>
<tr>
<td>Counterclaim Filing Fee</td>
<td>$1,250.00</td>
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*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, T. Rowe Price Investment Services, Inc. is assessed the following:

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<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Member Surcharge</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Pre-Hearing Processing Fee</td>
<td>$750.00</td>
</tr>
<tr>
<td>Member Hearing Processing Fee</td>
<td>$2,200.00</td>
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**Discovery-Related Motion Fees**
Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on a discovery-related motion on the papers
with one arbitrator @ $200.00 = $200.00
Michele Pacitto, Jr. submitted one discovery-related motion

Total Discovery-Related Motion Fees = $200.00

The Panel has assessed $200.00 of the discovery-related motion fees to Claimant Charles M. Prignano.

**Contested Motion for Issuance of a Subpoena Fees**
Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena
with one arbitrator @ $200.00 = $200.00

Total Contested Motion for Issuance of Subpoenas Fees = $200.00

The Panel has assessed $200.00 of the contested motion for issuance of subpoenas fees to Claimant Charles M. Prignano.

**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), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ $450.00/session = $450.00
Pre-hearing conference: May 1, 2014 1 session

One (1) Pre-hearing session with the Panel @ $1,000.00/session = $1,000.00
Pre-hearing conference: August 19, 2013 1 session

Four (4) Hearing sessions @ $1,000.00/session = $4,000.00
Hearing Dates: June 2, 2014 2 sessions
June 3, 2014 2 sessions

Total Hearing Session Fees = $5,450.00

1. The Panel has assessed $5,000.00 of the hearing session fees to Claimant Charles M. Prignano.
2. The Panel has waived $450.00 of the hearing session fees.

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

David L. Erickson - Public Arbitrator, Presiding Chairperson
Steven M. Feder - Public Arbitrator
Gerald K. Moore - 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

Signed: ___________________________  July 18, 2014
David L. Erickson
Public Arbitrator, Presiding Chairperson

Signed: ___________________________  7-18-2014
Steven M. Feder
Public Arbitrator

Signed: ___________________________  7-18-2014
Gerald K. Moore
Non-Public Arbitrator

July 21, 2014
Date of Service (For FINRA Dispute Resolution office use only)