

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
James E. Grimes

Case Number: 17-00474

vs.

Respondent
Trustmont Financial Group, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant James E. Grimes: Bruce D. Oakes, Esq. and Richard B. Fosher, Esq., Oakes & Fosher, LLC, Saint Louis, Missouri.

For Respondent Trustmont Financial Group, Inc.: William T. Krzton, Esq., Three Rivers Law, Tarentum, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: February 17, 2017.
James E. Grimes signed the Submission Agreement: February 2, 2017.

Statement of Answer filed by Respondent on or about: May 18, 2017.
Trustmont Financial Group, Inc. signed the Submission Agreement: May 11, 2017.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Florida's Securities and Investor Protection Act § 517.011 *et al*; breach of fiduciary duty; common law fraud; failure to supervise; suitability; negligence / negligent misrepresentation / omission; breach of contract; restitution; and negligent supervision. The causes of action relate to two 1035 annuity exchanges and a private Real Estate Investment Trust ("REIT").

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, Claimant requested:

1. Compensatory damages of approximately \$500,000.00;
2. Attorneys' Fees;
3. Pre-judgment Interest;
4. Costs;
5. Punitive Damages;
6. Filing Fees;
7. Forum Fees; and
8. Such other relief as the Panel deems just and proper.

In the Statement of Answer, Respondent requested:

1. Dismissal of all claims; and
2. Attorneys' Fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties present at the hearing 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. Respondent is liable for and shall pay to Claimant the sum of \$848,002.31 in compensatory damages for unsuitability, failure to supervise, and misrepresentation pursuant Florida Securities and Investor Protection Act § 517.211.
2. Respondent is liable for and shall pay to Claimant the sum of \$100,000.00 in punitive damages pursuant to Florida Statute § 768.40 and the FINRA Office of Dispute Resolution Arbitrator's Guide.
3. Respondent is liable for and shall pay to Claimant the sum of \$15,596.00 in costs.
4. Respondent is liable for and shall pay to Claimant the sum of \$82,500.00 in attorneys' fees pursuant to Florida Securities and Investor Protection Act.
5. Any and all claims for relief not specifically addressed herein, including Respondent's request for attorneys' fees are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee for each claim:

Initial Claim Filing Fee	= \$ 1,425.00
--------------------------	---------------

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent is assessed the following:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 26-29, 2018, postponement by joint motion:	= \$ 1,125.00
--	---------------

Total Postponement Fees	= \$ 1,125.00
-------------------------	---------------

The Panel has assessed \$562.50 of the adjournment fee to Claimant.

The Panel has assessed \$562.50 of the adjournment fee to Respondent.

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00 /decision	= \$ 200.00
--	-------------

Claimant submitted 1 discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
-------------------------------------	-------------

The Panel has assessed the entire discovery-related motion fee of \$200.00 to Respondent.

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 arbitrators, including a pre-hearing conference with the arbitrators that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) hearing sessions @ \$1,125.00/session			= \$ 4,500.00
Hearing Dates:	August 7, 2018	2 sessions	
	August 8, 2018	2 sessions	

Total Hearing Session Fees			= \$ 4,500.00
----------------------------	--	--	---------------

The Panel has assessed \$ 2,250.00 of the hearing session fees to Claimant.

The Panel has assessed \$ 2,250.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Frank Brenner	-	Public Arbitrator, Presiding Chairperson
Carol B. Robinson	-	Public Arbitrator
Arthur J. Zelenak, Sr.	-	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

Frank Brenner
Public Arbitrator, Presiding Chairperson

Signature Date

Carol B. Robinson
Public Arbitrator

Signature Date

Arthur J. Zelenak, Sr.
Non-Public Arbitrator

Signature Date

August 22, 2018

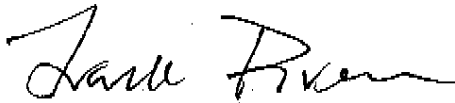
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

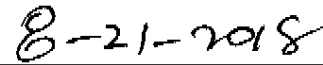
Frank Brenner	-	Public Arbitrator, Presiding Chairperson
Carol B. Robinson	-	Public Arbitrator
Arthur J. Zelenak, Sr.	-	Non-Public Arbitrator

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



Frank Brenner
Public Arbitrator, Presiding Chairperson



Signature Date

Carol B. Robinson
Public Arbitrator

Signature Date

Arthur J. Zelenak, Sr.
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL


Frank Brenner	-	Public Arbitrator, Presiding Chairperson
Carol B. Robinson	-	Public Arbitrator
Arthur J. Zelenak, Sr.	-	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

Frank Brenner
Public Arbitrator, Presiding Chairperson

Signature Date



Carol B. Robinson
Public Arbitrator



Signature Date

Arthur J. Zelenak, Sr.
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Office of Dispute Resolution office use only)



ARBITRATION PANEL

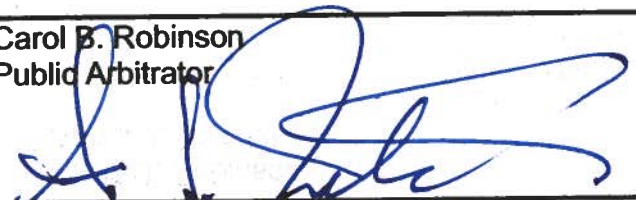
Frank Brenner	-	Public Arbitrator, Presiding Chairperson
Carol B. Robinson	-	Public Arbitrator
Arthur J. Zelenak, Sr.	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

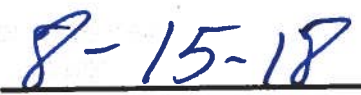
Concurring Arbitrators' Signatures

Frank Brenner
Public Arbitrator, Presiding Chairperson

Signature Date

Carol B. Robinson
Public Arbitrator


Arthur J. Zelenak, Sr.
Non-Public Arbitrator

Signature Date


Signature Date

Date of Service (For FINRA Office of Dispute Resolution office use only)