Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Allan S. Levine

vs.

Respondent
Ameriprise Financial Services, Inc.

Case Number: 14-01826
Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member
This case was decided by an all-public panel.

REPRESENTATION OF PARTIES


CASE INFORMATION

Statement of Claim filed on or about: June 4, 2014.
Claimant signed the Submission Agreement: June 10, 2014.

Statement of Answer filed by Respondent on or about: August 4, 2014.
Respondent signed the Submission Agreement: August 4, 2014.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability, breach of fiduciary duty, negligence, gross negligence, and breach of contract.

The causes of action relate to unspecified securities.

Unless specifically admitted in its 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 compensatory damages in the amount of $200,000.00, punitive damages in the amount of 600,000.00, interest, costs and fees, forum fees, expert witness fees, and such further relief as the arbitrators deem just and appropriate.

Respondent requested dismissal of the Statement of Claim with prejudice, forum fees, and expungement of unnamed party Richard Ehli’s CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about June 22, 2015 the parties reached a settlement. Respondent asked that the matter remain open for the purpose of hearing unnamed party Richard Ehli’s expungement request.

By email dated July 28, 2015, Claimant advised FINRA that he would not be participating at the expungement hearing.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Arbitrators (the “Panel”) determined that Claimant received due notice of the expungement hearing, and that the hearing would proceed without said Claimant present.

In recommending expungement the Panel considered the pleadings, Robert Ehli’s BrokerCheck Report, the settlement documents, and exhibits that fully reflected the entire relationship between Claimant and Robert Ehli. The Panel also considered the amounts paid to Claimant and the other relevant terms and conditions of the settlement. The Panel noted that Robert Ehli did not contribute to the settlement, the settlement was not conditioned on the customer in the above-referenced arbitration not opposing a motion for expungement, and the settlement amount was nominal compared to litigation costs.

Respondent, the only party to appear has 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 recorded hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to the above-captioned arbitration from unnamed party Richard Ehli's (CRD# 3137913) registration records maintained by the Central Registration Depository (“CRD”), with the understanding that, pursuant to Notice to Members 04-16, unnamed party Richard Ehli 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 arbitration panel 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 arbitration panel has made the above Rule 2080 findings based on the following reasons:

At the expungement hearing held on September 25, 2015, the Financial Advisor, Richard Ehli, testified with respect to his relationship with Claimant Levine. Neither the Claimant nor a representative appeared at the hearing. Robert Ehli provided credible testimony together with a CD disk containing account documents and customer statements, which he reviewed and that were examined by the Panel, that supported his view of events. It was clearly demonstrated that he did not breach his fiduciary responsibility and, in fact, attempted to steer Claimant toward a responsible path forward consistent with his Moderate to Moderately Aggressive stated investment profile. Robert Ehli did not recommend unsuitable investments, did not engage in self-dealing, nor was his conduct ever inappropriate. Accordingly, the Panel found that the Claim brought by Levine to be “Clearly Erroneous”. Not only did the Claimant fail to specify any examples of inappropriate advice but the decrease in the asset value of Claimant’s account was solely due to his own withdrawals and if left alone, the account would have appreciated in value during the time frame in question.
FEES

Pursuant to the Code, the following fees are assessed:

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

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\text{Initial Claim Filing Fee} = 1,575.00
\]

*The filing fee is made up of a non-refundable and a refundable portion.

FINRA Dispute Resolution previously deferred Claimant’s filing fees. At the conclusion of the matter the Panel determined to waive the non-refundable portion of Claimant’s fees.

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, as a party, Ameriprise Financial Services, Inc. is assessed the following:

\[
\begin{align*}
\text{Member Surcharge} &= 2,250.00 \\
\text{Pre-Hearing Processing Fee} &= 750.00 \\
\text{Hearing Processing Fee} &= 4,000.00
\end{align*}
\]

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:

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\begin{align*}
\text{Two (2) Pre-hearing sessions with the Panel @ $1,200.00/session} &= 2,400.00 \\
\text{Pre-hearing conferences:} & \\
\text{October 27, 2014} &= 1 \text{ session} \\
\text{February 20, 2015} &= 1 \text{ session} \\
\text{One (1) Hearing session on expungement request @ $1,200.00/session} &= 1,200.00 \\
\text{Hearing Date:} & \\
\text{September 25, 2015} &= 1 \text{ session} \\
\text{Total Hearing Session Fees} &= 3,600.00
\end{align*}
\]

The Panel has assessed the $3,600.00 hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.
I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures

Paul S. Biederman
Public Arbitrator, Presiding Chairperson

Biagio A. Civale
Public Arbitrator

Joseph I. Liebman
Public Arbitrator

October 23, 2015
Date of Service (For FINRA Dispute Resolution office use only)
I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

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ARBITRATION PANEL

Paul S. Biederman - Public Arbitrator, Presiding Chairperson
Biagio A. Civale - Public Arbitrator
Joseph I. Liebman - Public Arbitrator

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Public Arbitrator, Presiding Chairperson
Signature Date

Biagio A. Civale
Public Arbitrator
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