

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Paul Leyder

Case Number: 18-03033

vs.

Respondent
Network 1 Financial Securities Inc.

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

For Claimant Paul Leyder: Darryl Bouganim, Esq. and Jenice Malecki, Esq., Malecki Law, New York, New York.

For Respondent Network 1 Financial Securities Inc.: Martin P. Unger, Esq., Wexler Burkhart Hirschberg & Unger, LLP, Garden City, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2018.
Paul Leyder signed the Submission Agreement: August 23, 2018.

Statement of Answer filed by Respondent on or about: October 24, 2018,
Network 1 Financial Securities Inc. signed the Submission Agreement: September 28, 2018.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation, omissions, unsuitable investment recommendations, lack of supervision, breach of contract and industry rules. The causes of action relate to investment in Proshares Ultra Bloomberg Crude Oil 2x ("UCO").

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 compensatory damages in the amount not less than \$191,025.00, consequential damages, punitive damages, interest, attorneys' fees, costs and disciplinary referral.

In the Statement of Answer Respondent requested the dismissal of the Statement of Claim with prejudice, expungement of this Arbitration from the Central Registration Depository ("CRD") records of Unnamed Parties Robert Thomas Ciaccio, Jr. and Mark Andrew Miranda, costs and for such other relief as the Arbitrators deem fit.

During the hearing, Claimant's compensatory damages was deemed amended to \$203,029.00 to conform to proof.

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 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. Respondent is liable for and shall pay to Claimant the sum of \$203,029.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 5% per annum from May 7, 2018 until paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$67,000.00 in attorneys' fees pursuant to Synergy Gas Co. v. Sasso, 853 F.2d 59 (2d Cir. 1988), cert. denied, 488 U.S. 994 (1988); and (2) McLaughlin, Piven, Vogel Securities, Inc v. Ferrucci, 67 A.D.3d 405 (1st Dept. 2009).
4. Respondent shall reimburse Claimant for the \$300.00 non-refundable portion of the claim filing fee previously paid by Claimant to FINRA Office of Dispute Resolution.
5. Respondent's request for expungement of the CRD records of Unnamed Parties Robert Thomas Ciaccio, Jr., and Mark Andrew Miranda is denied.
6. Any and all claims for relief not specifically addressed herein, including punitive damages and costs, 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
--------------------------	--------------

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Network 1 Financial Securities, Inc., is assessed the following:

Member Surcharge	=\$ 1,700.00
Member Process Fee	=\$ 3,250.00

Contested Motion for Issuance of 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 two Arbitrators @ \$250.00	=\$ 500.00
--	------------

Total Contested Motion for Issuance of Subpoena Fees	=\$ 500.00
--	------------

The Panel has assessed \$250.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$250.00 of the contested motion for issuance of subpoena fees 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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	=\$1,125.00
Pre-hearing conference: December 17, 2018 1 session	

Seven (7) hearing sessions @ \$1,125.00/session	=\$7,875.00
Hearing Dates: September 16, 2019 2 sessions	
September 17, 2019 2 sessions	
September 18, 2019 2 sessions	
September 19, 2019 1 session	

Total Hearing Session Fees	=\$9,000.00
----------------------------	-------------

The Panel has assessed the \$562.50 hearing session fees to Claimant.
The Panel has assessed the \$8,437.50 hearing session fees to Respondent.

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

ARBITRATION PANEL

Francis Carling	-	Public Arbitrator, Presiding Chairperson
Richard W. Vallario	-	Public Arbitrator
Fred S. Pieroni	-	Public Arbitrator

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

Francis Carling

Francis Carling
Public Arbitrator, Presiding Chairperson

10/17/2019

Signature Date

Richard W. Vallario

Richard W. Vallario
Public Arbitrator

10/18/2019

Signature Date

Fred S. Pieroni

Fred S. Pieroni
Public Arbitrator

10/17/2019

Signature Date

October 18, 2019

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