

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
William Struwe

Case Number: 20-04098

vs.

Respondents
First Standard Financial Company LLC
Carl George Antaki
Carmine Anthony Berardi

Hearing Site: Honolulu, Hawaii

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. Member and Associated Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant William Struwe (“Claimant”): Scott I. Batterman, Esq., Clay Chapman Iwamura Pulice & Nervell, Honolulu, Hawaii.

For Respondent First Standard Financial Company LLC (“First Standard”): Michael Leahy, CCO, First Standard Financial Company, LLC, Red Bank, New Jersey.

For Respondent Carl George Antaki (“Antaki”): Anthony C. Varbero, Esq., Joseph Mure Jr. & Associates, Brooklyn, New York.

Respondent Carmine Anthony Berardi (“Berardi”) appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: December 16, 2020.
Claimant signed the Submission Agreement: January 13, 2021.

Statement of Answer filed by Antaki on or about: March 6, 2021.
Antaki signed the Submission Agreement: March 9, 2021.
First Standard did not file a Statement of Answer or sign the Submission Agreement.

Berardi 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: unauthorized trading and unauthorized use of margin; qualitative and quantitative unsuitability; failure to supervise; breach of fiduciary duty; breach of contract; negligent misrepresentation and omissions. The causes of action relate to stock in Abeona Therapeutics, Inc. and other unspecified securities in Claimant's account.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Net out-of-pocket damages in the amount of \$278,633.28 plus interest thereon;
2. Disgorgement of commissions, fees, and margin interest in the amount of \$66,097.83;
3. Costs of bringing this action; and
4. Such other and further relief as the Panel may deem appropriate.

In the Statement of Answer, Antaki requested:

1. An Award denying all claims set forth in the Statement of Claim;
2. All costs and expenses incident to the arbitration including, without limitation, attorneys' fees; and
3. Expungement of any reporting of the instant matter from FINRA's Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

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

Berardi did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On March 22, 2021, Respondent First Standard filed for bankruptcy under the United States Bankruptcy Code. In accordance with these filings, all claims against Respondent First Standard are indefinitely stayed. Therefore, the Panel made no determination with respect to the claims against Respondent First Standard.

On May 14, 2021, Claimant filed a notice of voluntary dismissal with prejudice with respect to Antaki. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim against Antaki.

On that same day, Antaki withdrew his request for expungement of this matter from his CRD records. Therefore, the Panel made no determination regarding expungement.

On August 9, 2021, the Panel conducted the evidentiary hearing by videoconference. On August 10, 2021, Claimant and Berardi advised the Panel that they had reached a tentative settlement, and requested an adjournment. The Panel granted the request and adjourned the hearing.

Claimant did not withdraw the claim, indicating to the Panel that no settlement was reached. Additional evidentiary hearing dates were scheduled for January 10-12, 2022.

On November 29, 2021, FINRA received notice that Berardi had passed away. On December 14, 2021, the Panel requested a brief from Claimant regarding whether the Panel had jurisdiction to render a final award in this matter. On December 21, 2021, Claimant filed a Memorandum Regarding Panel's Authority to Rule Regarding Respondent Carmine Anthony Berardi. On December 22, 2021, the Panel issued an order addressing whether, due to Berardi's passing after submission of evidence at the hearing, but before closing arguments, the Panel had jurisdiction to render a final award in this matter. The Panel unanimously concluded that there is continuing jurisdiction to proceed with closing arguments, after which the Panel shall close the evidentiary hearing and render a final award.

On January 10, 2022, the Panel resumed the evidentiary hearing and now issues its final award.

AWARD

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

1. Berardi is liable for and shall pay to Claimant the sum of \$281,500.00 in compensatory damages.
2. Berardi is liable for and shall pay to Claimant interest on the above-stated sum at the rate according to applicable state law per annum from December 21, 2020 through and including the date on which the Award is paid in full.
3. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$	1,425.00
Counterclaim Filing Fee	= \$	1,575.00

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

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, which 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: May 10, 2021	1 session	
Three (3) hearing sessions @ \$1,125.00/session	= \$	3,375.00
Hearings: August 9, 2021	1 session	
August 10, 2021	1 session	
January 10, 2022	1 session	
<hr/> 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 Berardi.

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

ARBITRATION PANEL

John J. Fitzpatrick, Jr.	-	Public Arbitrator, Presiding Chairperson
Michael Lancaster Garcia	-	Public Arbitrator
Reed Way Dasenbrock	-	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

John J. Fitzpatrick, Jr.

John J. Fitzpatrick, Jr.
Public Arbitrator, Presiding Chairperson

01/13/2022

Signature Date

Michael Lancaster Garcia

Michael Lancaster Garcia
Public Arbitrator

01/13/2022

Signature Date

Reed Way Dasenbrock

Reed Way Dasenbrock
Public Arbitrator

01/13/2022

Signature Date

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January 13, 2022

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