

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Steven Swanson

Case Number: 20-04065

vs.

Respondent
Infinity Financial Services

Hearing Site: Seattle, Washington

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

REPRESENTATION OF PARTIES

For Claimant Steven Swanson (“Claimant”): Jason S. Haselkorn, Esq., Haselkorn & Thibaut, P.A., Palm Beach, Florida.

For Respondent Infinity Financial Services (“Respondent”): Alan M. Wolper, Esq., Ulmer & Berne LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: December 14, 2020.
Claimant signed the Submission Agreement: December 14, 2020.

Statement of Answer filed by Respondent on or about: March 12, 2021.
Respondent signed the Submission Agreement: March 11, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligence; professional negligence; violations of law; unsuitable recommendations; negligent supervision; breach of contract; breach of fiduciary duty; and breach of securities industry rules and regulations. The causes of action relate to Sierra Income real estate investment trust.

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. General and compensatory damages in the amount of \$35,000.00;
2. Lost opportunity costs;
3. Rescission of the improper investments;
4. Cost of proceedings;
5. Punitive damages in an amount according to proof;
6. Interest at the legal rate on all sums recovered;
7. Attorneys' fees and costs; and
8. Such other and further relief as the Arbitrator deems just and appropriate.

In the Statement of Answer, Respondent requested:

1. Claimant's claims be dismissed with prejudice;
2. Attorneys' fees;
3. The hearing session fees in this matter be assessed to Claimant; and
4. Any other fees and costs that the Arbitrator deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On March 12, 2021, Respondent filed a Motion to Dismiss. On May 17, 2021, Claimant filed an opposition to the motion. On June 1, 2021, Respondent filed a reply to the opposition. On June 9, 2021, the Arbitrator denied the Motion to Dismiss.

On November 1, 2021, Respondent filed a Motion to Compel, to which no response was submitted. On November 13, 2021, the Arbitrator granted the motion, but held in abeyance a request for attorneys' fees and costs.

On November 24, 2021, Claimant filed a notice of voluntary dismissal with prejudice. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the Statement of Claim.

On December 1, 2021, Respondent filed a Motion for Attorneys' Fees and Costs. On December 13, 2021, Claimant filed an opposition to the motion. On December 16, 2021, Respondent filed a reply to the opposition. The Arbitrator hereby grants Respondent's motion, awarding attorneys' fees and costs as sanctions for failure to comply with the FINRA discovery procedures and continuing to pursue the claim after it was apparent there were no reasonable grounds for doing so.

AWARD

After considering the pleadings, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant is liable for and shall pay to Respondent the sum of \$15,000.00 in attorneys' fees, pursuant to the Revised Code of Washington § 4.84.185 and Nevada Revised Statutes § 18.010(2)(b).

2. Claimant is liable for and shall pay to Respondent the sum of \$168.07 in costs.
3. Any and all claims for relief not specifically addressed herein are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee	=\$ 600.00
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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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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

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 (1) Arbitrator @ \$200.00/decision	=\$ 200.00
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Respondent submitted One (1) discovery-related motion

Total Discovery-Related Motion Fees	=\$ 200.00
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The Arbitrator has assessed the total discovery-related motion fees to Claimant.

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session	=\$ 900.00
Pre-Hearing Conferences: April 15, 2021	1 session
June 8, 2021	1 session

Total Hearing Session Fees	=\$ 900.00
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The Arbitrator has assessed \$225.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$675.00 of the hearing session fees to Respondent.

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

ARBITRATOR

James E. Bartels

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Sole 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.

Arbitrator's Signature

James E. Bartels

James E. Bartels
Sole Public Arbitrator

01/12/2022

Signature Date

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January 12, 2022

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