

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Virginia Frances Thompson

Case Number: 21-01006

vs.

Respondents

Janney Montgomery Scott LLC
Cetera Advisor Networks LLC
Stifel, Nicolaus & Company, Incorporated
UBS Financial Services Inc.
J.P. Turner & Company, LLC

Hearing Site: Boca Raton, Florida

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: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant Virginia Frances Thompson: James P. Galvin, Esq., Galvin Legal, PLLC, Decatur, Georgia.

For Respondent Janney Montgomery Scott LLC (“Janney”): Jill B. Clarke, VP, Esq., Janney Montgomery Scott LLC, Philadelphia, Pennsylvania.

For Respondent Stifel, Nicolaus & Company, Incorporated (“Stifel”): Paul R. Klein, Esq., Stifel, Nicolaus & Company, Incorporated, St. Louis, Missouri.

For Respondent UBS Financial Services Inc. (“UBS”): John Murphy, Esq., John Murphy & Associates, P.C., New York, New York.

For Respondents Cetera Advisor Networks LLC (“Cetera”) and J.P. Turner & Company, LLC (“JPT”): Benjamin J. Biard, Esq., Winget, Spadafora & Schwartzberg, LLP, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 15, 2021.

First Amended and Restated Statement of Claim filed on or about: June 15, 2021.

Second Amended and Restated Statement of Claim filed on or about: July 19, 2021.

Virginia Frances Thompson signed the Submission Agreement: April 15, 2021.

Statement of Answer filed by Respondent Janney on or about: May 11, 2021.
Janney Montgomery Scott LLC signed the Submission Agreement: May 11, 2021.

Statement of Answer filed by Respondent Stifel on or about: June 2, 2021.
Stifel, Nicolaus & Co., Inc. signed the Submission Agreement: June 25, 2021.

Statement of Answer filed by Respondent UBS on or about: May 14, 2021.
UBS Financial Services Inc. signed the Submission Agreement: April 15, 2021.

Statement of Answer filed by Respondent JPT on or about: June 17, 2021.
J.P. Turner & Company, LLC signed the Submission Agreement: June 21, 2021.

Cetera Advisor Networks LLC did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository ("CRD").

In its Statement of Answer, Respondent Janney took no position on Claimant's expungement request and indicated that it would not be participating in this proceeding.

In its Statement of Answer, Respondent Stifel took no position on Claimant's expungement request.

In its Statement of Answer, Respondent UBS stated that it does not oppose Claimant's expungement request and indicated that it would not be participating in this proceeding.

In its Statement of Answer, Respondent JPT stated that it does not oppose Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested expungement of Occurrence Numbers 1661725, 1488932, 650346, 179622, 361572, and 607364, as well as any and all other relief that the Panel deems just and equitable.

In its Statement of Answer, Respondent Janney did not delineate a relief request.

In its Statement of Answer, Respondent Stifel did not delineate a relief request.

In its Statement of Answer, Respondent UBS requested that Claimant's request for damages be denied and that all costs and fees associated with this matter be assessed solely against Claimant.

In its Statement of Answer, Respondent JPT requested that the Panel make a determination whether to issue a recommendation pursuant to Rule 2080 and assess all forum fees and costs against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about June 15, 2021, Claimant filed an unopposed First Amended and Restated Statement of Claim for the sole purpose of adding J.P. Turner & Company, LLC as a Respondent and removing Cetera Advisor Networks LLC as a Respondent.

On or about July 19, 2021, Claimant filed an unopposed Second Amended and Restated Statement of Claim for the sole purpose of correcting the misidentified underlying customers and occurrence numbers associated with the disclosures at issue.

All of the underlying customers in Occurrence Numbers 179622, 361572, and 607364 are deceased. One of the underlying customers in Occurrence Number 1661725 is also deceased. Claimant submitted obituaries for these customers, and the Panel determined that service upon these customers is not required.

On October 22, 2021 and December 27, 2021, Claimant attempted to serve the underlying customer in Occurrence Number 650346. As of January 21, 2022, the USPS electronic tracking system reflects that on January 6, 2022, an authorized signer was not present, and notice was left to claim the mail or reschedule delivery. To date, this customer has done neither. Therefore, the Panel directed Claimant to provide legal authority regarding the Panel's authority to deem service sufficient on the underlying customer regarding Occurrence Number 650346, which Claimant did.

On December 30, 2021, Claimant advised that the remaining underlying customers in Occurrence Number 1661725, as well as the underlying customer in Occurrence Number 1488932, were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded, telephonic hearing on February 2, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents did not participate in the expungement hearing. The underlying customer in 1488932 participated in the hearing and opposed the expungement request. The Panel found that all of the living underlying customers had notice of the expungement request and hearing.

The Panel reviewed Claimant's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same Occurrences in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 1661725, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Panel was unable to review the settlement documentation related to Occurrence Numbers 179622, 361572, 650346 and 607364 because Respondents UBS and Stifel were unable to locate them.

The Panel was unable to review the settlement documentation related to Occurrence Number 1488932 because, despite Claimant's request for a copy from Respondent Janney, and the Panel's subpoena for its production, Respondent Janney did not provide the settlement agreement or state whether such documentation exists.

Inasmuch as the Panel was unable to review the settlement agreements in Occurrence Numbers 179622, 361572, 650346, 607364 and 1488932, the Panel conducted a review of Claimant's BrokerCheck® Report, confirmed the allegations contained in each of the underlying disputes, and reviewed how each was resolved. Additionally, Claimant denied contributing to any settlement for any of the Occurrences that are at issue in this case, as more specifically set forth in the Award section below.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's Exhibits 1-13 and Claimant's BrokerCheck® Report.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, 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 Occurrence Numbers 1661725, 1488932, 650346, 179622, 361572, and 607364 from registration records maintained by the CRD for Claimant Virginia Frances Thompson (CRD 1834046) with the understanding that, pursuant to Notice to Members 04-16, Claimant Virginia Frances Thompson 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 13805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative findings of fact as to all Occurrences:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

Occurrence Number 1661725

The recommendations were suitable for these customers (husband and wife) at the time Claimant made them, given the customers' moderately aggressive risk tolerance and the

wife's decision to double the amount of money she was withdrawing from the account, which necessitated reallocating the account so that it would generate more income so that she would not be drawing down as much of her principal balance. The allegation that Claimant made unsuitable and speculative recommendations is false. In addition, Claimant was not the financial advisor responsible for monitoring the investment when the customers moved the account elsewhere.

Occurrence Number 1488932

The annuity was suitable for this customer and it was suitable to not include a "living benefit" rider given that the customer was very clear that, considering his net worth and annual expenses, the funds from that particular annuity would not be needed during his lifetime. As such, the variable annuity was a suitable recommendation at the time it was made and the allegation that Claimant "removed" the living benefit rider from the annuity application is false.

Occurrence Number 650346

The investment was suitable for this customer at the time of the recommendation, with all risks explained. The customer, who was a moderately aggressive investor seeking income, purchased approximately four or five income-producing investments, including funds and bonds, with the approximately \$100,000.00 she held with Claimant. Specifically, as it relates to Service Merchandise bonds, it would have been impossible to predict the events that ultimately led to the bond's decline. The BrokerCheck® Report indicates that Claimant contributed \$2,000.00 to the settlement amount. That is inaccurate. The disclosure was reported by Claimant as the broker and, upon information and belief, she incorrectly marked that she contributed to the settlement amount when in fact she had not. The allegations contained in this occurrence are false and without merit.

Occurrence Number 179622

The recommendation to purchase the bonds was not inappropriate. This customer had a net worth of between \$350,000.00 and \$400,000.00. Her investment objective was income and she expressed that she was willing to take on additional risk by investing in high yield bonds that pay higher yields that she stated she needed, rather than the more conservative bonds offered. After the discussion, Claimant determined that investing in several high-yield bonds would be an appropriate recommendation because they would provide the higher yields she was seeking and by investing in several different bonds it would lower her overall risk through diversification. Claimant only recommended high-yield or non-investment grade bonds that were rated at least BB+ or BBB+. Claimant explained how high-yield bonds function and the difference between how they function compared to more conservative bonds, like government bonds. Once Claimant was satisfied that the customer understood, she recommended that the customer invest in several high-yield bonds. Understanding how high-yield bonds function and the reason for the recommendation, the customer decided to purchase approximately four to six of the high-yield bonds Claimant offered to her. The allegations contained in the claim are false.

Occurrence Number 361572

The bonds were suitable for this customer at the time of the recommendation; therefore, the claim made in this matter is false. The customer was a moderately aggressive investor who was seeking to earn the maximum income from his investments with Claimant. Claimant presented the customer with numerous potential investments that would maximize his

income. Out of the various investments Claimant presented to the customer, he was interested in the high-yield bonds she presented because of their yield. Claimant explained to the customer that high-yield bonds are considered to be lower quality and higher risk than certain other types of bonds. Over the approximately four years that the customer worked with Claimant, he decided to purchase approximately six high-yield bonds. In May 2007, Claimant left PaineWebber, now Respondent UBS, for another firm. The customer decided not to move his accounts to Claimant's new firm and because he had a relationship with a senior broker prior to Claimant, his accounts were assigned to two other advisors at PaineWebber. Approximately two years after Claimant left PaineWebber and the customer ceased to be her client, three of the six bonds he purchased from Claimant declined in value and the customer complained that the bonds were not suitable investments. Notably, he did not complain that the other high-yield bonds that did not decline in value were unsuitable, nor did he consider the bonds to be unsuitable at any time prior. The BrokerCheck® Report indicates that Claimant contributed \$16,000.00 to the settlement amount. That is inaccurate. The disclosure was reported by Claimant as the broker and, upon information and belief, she incorrectly marked that she contributed to the settlement amount when in fact she had not.

Occurrence Number 607364

The investment was suitable for the customers' (husband and wife) portfolio at the time of the recommendation, with all risks explained. Claimant offered the customers several investment options that were in line with their stated moderately aggressive risk tolerance and investment objective of income. Several of the options Claimant presented to the customers were high-yield bonds—Claimant only recommended high-yield or non-investment grade bonds that were rated at least BB+ or BBB+. Subsequently, the husband passed away and the son was appointed as successor co-trustee of the trust at issue (the "Trust"). It is important to note that the son worked in the investment underwriting business. At the time and when the complaint at issue was made, Claimant met with the wife to review the portfolio. During the meeting, Claimant reviewed the portfolio and discussed the risks associated with its then current allocation. The wife expressed satisfaction with the holdings and her desire to maintain the portfolio positions. Additionally, neither the wife nor the son requested any changes to the portfolio be made subsequent to the husband's passing. The allegations contained in this occurrence are false and without merit

2. 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:

Expungement Filing Fee	= \$ 1,575.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to

the dispute. Accordingly, as parties, Respondents Janney, Cetera, Stifel, UBS and JPT are each assessed the following:

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

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

Two pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-Hearing Conferences: October 18, 2021	1 session
December 6, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: February 2, 2022	1 session

Total Hearing Session Fees	= \$ 3,375.00
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The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

Jason Allen Rosner	-	Public Panel, Presiding Chairperson
Nanci Sondra Landy	-	Public Panel
Sheryl Sagel	-	Non-Public Panel

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

Concurring Panels' Signatures

Jason Allen Rosner

Jason Allen Rosner
Public Panel, Presiding Chairperson

02/07/2022

Signature Date

Nanci Sondra Landy

Nanci Sondra Landy
Public Panel

02/07/2022

Signature Date

Sheryl Sagel

Sheryl Sagel
Non-Public Panel

02/07/2022

Signature Date

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February 08, 2022

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