

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Christopher Rice

Case Number: 16-00095

vs.

Respondents
Shane Joseph Melito
Upinder Kumar Sharma
Philip A. Dina
Andrew C. Lavenziano

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Associated Persons

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Christopher Rice: Steven G. Legum, Esq., The Law Office of Steven G. Legum, Mineola, New York.

For Respondent Shane Joseph Melito ("Melito"): Martin P. Unger, Esq., Wexler Burkhart Hirschberg & Unger, LLP, Garden City, New York.

Respondent Upinder Kumar Sharma ("Sharma") appeared pro se.

Respondent Philip A. Dina ("Dina") appeared pro se.

Respondent Andrew C. Lavenziano ("Lavenziano") did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: January 4, 2016.

Amended Statement of Claim filed on or about: September 8, 2016.

Christopher Rice signed the Submission Agreement: February 22, 2016.

Statement of Answer filed by Melito on or about: April 22, 2016.

Amended Statement of Answer filed by Melito on or about: September 12, 2016.

Shane Joseph Melito signed the Submission Agreement: April 22, 2016.

Statement of Answer filed by Sharma on or about: September 1, 2016.

Upinder Kumar Sharma signed the Submission Agreement: September 25, 2016.

Statement of Answer filed by Dina on or about: October 31, 2016.
Phillip Dina signed the Submission Agreement: October 31, 2016.

Andrew C. Lavenziano did not submit a Statement of Answer or a Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: churning, suitability, unauthorized trading, negligence, breach of fiduciary duty, breach of contract, misrepresentation, lost opportunity damages, failure to supervise, and disgorgement. In the Amended Statement of Claim, the Claimant added the following cause of action: failure to supervise. The causes of action relate to various securities.

Unless specifically admitted in his Statement of Answer and Amended Statement of Answer, Respondent Melito denied the allegations made in the Statement of Claim and Amended Statement of Claim, and asserted various affirmative defenses.

Unless specifically admitted in his Statement of Answer, Respondent Sharma denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Statement of Answer, Respondent Dina denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested compensatory damages in the amount of \$170,410.76; punitive damages; interest; costs; reasonable attorneys' fees; and any other relief the Panel deems appropriate. The Claimant also requested lost opportunity costs in the Statement of Claim which was not requested in the Amended Statement of Claim.

In the Statement of Answer and Amended Statement of Answer, Respondent Melito requested dismissal of the Statement of Claim and Amended Statement of Claim with prejudice; expungement of his CRD records; costs and other fees; and for other relief as the Panel deems fit.

In the Statement of Answer, Respondent Sharma requested dismissal of the Amended Statement of Claim and expungement of his CRD records.

In the Statement of Answer, Respondent Dina requested dismissal of the Amended Statement of Claim with prejudice; expungement of his CRD records; costs and other fees; and for other relief as the Panel deems fit.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent Lavenziano did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, is bound by the determination of the Panel on all issues submitted.

On or about February 7, 2017, Respondent Dina filed for bankruptcy under the United States Bankruptcy Code. In accordance with these filings, all claims against Respondent Dina are indefinitely stayed. Therefore, the Panel made no determination with respect to the claims against Respondent Dina.

After Claimant's case-in-chief, Respondent Melito made a Motion to Dismiss and Claimant objected. After due deliberation, the Panel denied Respondent's motion.

After Claimant's case-in-chief, Respondent Sharma made a Motion to Dismiss and Claimant objected. After due deliberation, the Panel granted Respondent's motion.

Respondent Lavenziano did not appear at the evidentiary hearing. Upon review of the file and the representations made on behalf of the Claimant, the Panel determined that Respondent Lavenziano has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent Lavenziano present, in accordance with the Code.

The parties presented 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. Claimant's claims against Respondents Melito and Lavenziano are denied in their entirety.
2. Claimant's claims against Respondent Sharma are dismissed in their entirety.
3. Respondent Melito's request for expungement of his CRD records is denied.
4. Respondent Sharma's request for expungement of his CRD records is denied.
5. Any and all claims for relief not specifically addressed herein, including attorneys' fees and punitive damages, are denied.

FEES

Pursuant to the Code, 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
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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 persons at the time of the events giving rise to the dispute. Accordingly, as a member firm, Obsidian Financial Group, LLC, is assessed the following:

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

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with three(3) arbitrators @ \$600.00 /decision	=\$ 600.00
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<u>Claimant submitted one (1) discovery-related motion</u>	
Total Discovery-Related Motion Fee	=\$ 600.00

1. The Panel has assessed \$300.00 of the discovery-related motion fees to Claimant.
2. The Panel has assessed \$300.00 of the discovery-related motion fees jointly and severally to Respondents Melito and Sharma.

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/session	=\$ 1,125.00
Pre-hearing conference: July 6, 2016 1 session	

Three (3) hearing sessions @ \$ 1,125/session	= \$ 3,375.00
Hearing Dates: February 13, 2017 1 session	
February 14, 2017 2 sessions	
<hr/> Total Hearing Session Fees	<hr/> = \$ 4,500.00

1. The Panel has assessed \$2,250.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$2,250.00 of the hearing session fees jointly and severally to Respondents Melito and Sharma.

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

ARBITRATION PANEL

Robert Elliot Harrison	-	Public Arbitrator, Presiding Chairperson
Camille S. Cooper	-	Public Arbitrator
David A. Schwarz	-	Non-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



Robert Elliot Harrison
Public Arbitrator, Presiding Chairperson



Signature Date

Camille S. Cooper
Public Arbitrator

Signature Date

David A. Schwarz
Non-Public Arbitrator

Signature Date

March 23, 2017
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

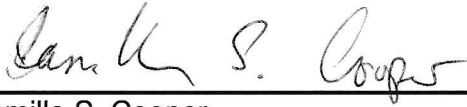
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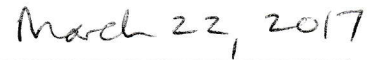
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