

AWARD
FINRA DISPUTE RESOLUTION

CASE #: 14-02184

Paul Inneo (Claimant) vs. Michael Gary Goodrich (Respondent)

REPRESENTATION OF PARTIES:

Claimant Paul Inneo appeared pro se.

For Respondent Michael Gary Goodrich: Ian J. Frimet, Esq., Wexler Burkhardt Hirschberg & Unger LLP, Garden City, New York.

NATURE OF DISPUTE: Customer vs. Associated Person

Statement of Claim filed on or about: July 5, 2014.

CASE SUMMARY: Claimant asserted the following causes of action: unsuitability, misrepresentation, failure to disclose material facts, and violation of fiduciary obligations. The causes of action relate to Claimant's investments in John Hancock Fds II Floating Rate Income Fund Class B (security symbol "JFIBX"), and Mainstay Fds Tr Floating Rate Fund Class B (security symbol "MXFBX").

RELIEF REQUESTED: In the Statement of Claim, Claimant requested:

Compensatory Damages: \$8,967.00

OTHER ISSUES CONSIDERED AND DECIDED: The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

On September 8, 2014, Respondent filed a Statement of Answer which included a request for expungement. Claimant did not file an opposition to the request for expungement. On December 4, 2014, Claimant advised FINRA Dispute Resolution that he would not be participating in the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on December 11, 2014 so Respondent could present evidence on his request for expungement.

In recommending expungement, the Arbitrator relied upon the following: Respondent's testimony; Claimant's Statement of Claim; and Respondent's Statement of Answer.

The Arbitrator reviewed a current copy of Respondent's BrokerCheck report.

AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The Arbitrator recommends the expungement of all references to the above-captioned arbitration from Respondent Michael Gary Goodrich's registration

records maintained by the Central Registration Depository (“CRD”), with the understanding that pursuant to Notice to Members 04-16, Respondent Michael Gary Goodrich 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 12805 of the Code of Arbitration Procedure, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous;
and

The claim, allegation, or information is false.

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

Respondent was sworn in to testify, and, was called as a witness. Mr. Frimet, Esq., and Arbitrator Joseph C. Watson both asked Respondent questions. Mr. Frimet, Esq., also gave a brief summation and closing argument.

Since Claimant did not participate in the hearing, the Statement of Claim forms the basis of support for what allegations Claimant asserted against Respondent. Claimant brought his claim in pro per. At issue are Claimant’s allegations that Respondent misrepresented or failed to disclose material facts concerning investments, namely B-class shares of the John Hancock Income Fund. Claimant asserts that Respondent failed to disclose to Claimant that there would be a contingent deferred sales charge (CDSC) in the event that Claimant sold his B-class shares before expiration of a specified term, i.e. 6 years. Claimant eventually sold the subject shares prior to expiration of 6 years and incurred a CDSC in the amount of approximately \$6,977.00.

Claimant also asserts that the recommendation to purchase the John Hancock Income Fund B-class shares was unsuitable, based on Claimant’s age, financial status, investing experience, investing objectives and risk tolerance. Claimant similarly asserts that the recommendation failed to properly diversify his portfolio. Claimant states that his objections were preservation of capital, some growth, and some income.

Finally, Claimant asserts that Respondent breached his fiduciary duty to Claimant.

The remainder of the allegations made in the Statement of Claim fall within the claims stated above and do not form separate causes of action.

Respondent testified that he and his business partner met with Claimant and thoroughly discussed the nature of the John Hancock Income Fund, the nature of the CDSC relative to the B-Class shares, and the difference between A- and B-class shares. Respondent further testified that the John Hancock Income Fund is not speculative or high risk; and, that the subject Fund has a good history and track record. Respondent testified in detail regarding Claimant's portfolio and how the various investments met Claimant's objectives, how the various investments were suitable, and how Claimant participated in the discussion and decision regarding what investments to make. Finally, Respondent testified that Claimant could have transferred/converted his B-class shares in the John Hancock Income Fund to any other John Hancock product at any time without being subjected to the CDSC.

Having considered the testimony of Respondent, and having reviewed the pleadings in this matter, having ruled on the merits of the claims, and having reviewed applicable laws, the Arbitrator finds and rules as stated herein.

Respondent was credible and believable. The allegations in Claimant's Statement of Claim are not credible and are conflicting in facts, lessening the credibility of the allegations. Respondent did not make any misrepresentations to Claimant regarding the nature of B-Class shares of the John Hancock Income Fund or the CDSC rules. Respondent did not breach his fiduciary duty to Claimant. The recommendation of the B-Class shares of the John Hancock Income Fund was not unsuitable, was not too speculative or too risky, and did not cause Claimant's portfolio to be unbalanced, to lack diversification, or to otherwise be inappropriate given Claimant's age, investment objectives, investment experience, and financial status.

Based on those findings, the claims of misrepresentation or failing to disclose material facts, i.e. the CDSC rules regarding the B-Class shares of the John Hancock Income Fund, made by Claimant against Respondent are false and said claims must be expunged under FINRA Rule 2080 (b)(1)(C). The remaining claims (unsuitability, breach of fiduciary duty) set forth above, in addition to being false, are factually impossible and clearly erroneous and must be expunged under FINRA Rule 2080 (b)(1)(A) and (C). Having satisfied the requirements of FINRA Rule 2080, expungement is appropriate.

Expungement of this claim from Respondent's record is appropriate and therefore recommended under FINRA Rule 2080 (b)(1)(A) and (C), as set forth above.

- 3) FINRA Dispute Resolution shall retain the \$325.00 filing fee that the Claimant deposited previously.
- 4) Respondent is liable for and shall pay to Claimant \$162.50 to reimburse Claimant one half of the filing fee previously paid to FINRA Dispute Resolution.

OTHER FEES: Respondent's firm, Garden State Securities, Inc., has paid to FINRA Dispute Resolution the \$325.00 Member Surcharge previously invoiced.

The Arbitrator has assessed the \$250.00 expungement hearing session fee to Respondent.

ARBITRATOR

Joseph C. Watson

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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



Joseph C. Watson
Sole Public Arbitrator

12/19/14

Signature Date

December 22, 2014
Date of Service (For FINRA-DR office use only)