



**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant
John E. Artmire

Case Number: 12-02841

vs.

Respondent
First Midwest Securities, Inc.

Hearing Site: Dallas, Texas

Nature of the Dispute: Customer vs. Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant John E. Artmire: Bruce D. Oakes, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent First Midwest Securities, Inc.: Brandon S. Reif, Esq., Winget Spadafora & Schwartzberg LLP, Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: July 31, 2012.

John E. Artmire signed the Submission Agreement: July 19, 2012.

Statement of Answer filed by Respondent on or about: October 17, 2012.

First Midwest Securities, Inc. signed the Submission Agreement: October 26, 2012.

CASE SUMMARY

Claimant asserted the following causes of action: Violation of Texas Securities Act § 581-33; breach of fiduciary duty; common law fraud; breach of contract; restitution; negligence, negligent misrepresentation, and omission; and negligent supervision.

The causes of action related to Claimant's allegations that Respondent churned Claimant's account in combination with aggressively allocating Claimant's assets in highly speculative securities, including numerous speculative call options. Claimant further alleged that Respondent mismanaged his account by extensively using margin to leverage Claimant's account to the greatest extent possible, causing Claimant to lose a significant portion of his life savings.

Unless specifically admitted in its 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:

Compensatory Damages	\$275,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

At the close of the hearing, Claimant requested:

Compensatory Damages	\$296,071.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	\$ 78,000.00
Other Costs	\$ 31,308.51

Respondent requested that the claims asserted against it be denied and that it be awarded its costs of defense, including expert fees. Respondent also requested that all forum fees be assessed to Claimant and other appropriate relief.

At the close of the hearing, Respondent requested costs in the amount of \$114,113.61 and expungement of all references to this matter from the registration records maintained by the Central Registration Depository ("CRD") on behalf of unnamed party Douglas Rosenberg.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel ordered that the court reporter's transcript serve as the official record of the hearing in this matter and that the digital recording serve as the official record of the closing arguments.

The Panel considered Respondent's Motion to Compel Production of Documents and Motion for Sanctions at the hearing and denied the motion on the record.

Respondent orally moved for a directed verdict on the record at the hearing on May 21, 2015. The Panel denied that motion on the record at the hearing.

The parties 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$236,403.00 in compensatory damages;
2. Respondent is liable for and shall pay to Claimant prejudgment interest on the above-stated sum at the rate of 5% per annum from and including July 31, 2012, through and including the date of service of this Award;
3. Respondent is liable for and shall pay to Claimant post-judgment interest on the above-stated sum at the rate of 5% per annum from the date of service of this award, through and including the date this Award is paid in full;
4. Respondent is liable for and shall pay to Claimant the sum of \$472,806.00 in punitive damages pursuant to Texas Civil Practice and Remedies Code § 41.003;
5. Respondent is liable for and shall pay to Claimant the sum of \$78,000.00 in attorneys' fees pursuant to Texas Securities Act § 581-33;
6. Respondent is liable for and shall pay to Claimant the sum of \$31,308.00 in costs;
7. Respondent is liable for and shall pay to Claimant the sum of \$300.00 as reimbursement for the non-refundable portion of the FINRA filing fee;
8. Respondent's request for expungement on behalf of unnamed party Douglas Rosenberg (CRD #3214215) is denied; and
9. Any and all relief not specifically addressed herein, including sanctions, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee

= \$ 1,425.00

**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 party, First Midwest Securities, Inc. is assessed the following:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

<u>October 7-10, 2014, adjournment by Respondent</u>	<u>= \$ 1,125.00</u>
Total Adjournment Fees	= \$ 1,125.00

The Panel has assessed \$1,125.00 of the adjournment fees to First Midwest Securities, Inc.

Discovery-Related Motion Fees

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

Four (4) Decisions on discovery-related motions on the papers with One (1) arbitrator @ \$200.00	= \$ 800.00
<u>Respondent submitted four (4) discovery-related motions</u>	<u></u>
Total Discovery-Related Motion Fees	= \$ 800.00

The Panel has assessed \$200.00 of the discovery-related motion fees to John E. Artmire.

The Panel has assessed \$600.00 of the discovery-related motion fees to First Midwest Securities, Inc.

Contested Motion for Issuance of a Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena One (1) arbitrator @ \$200.00 (maximum of \$600)	= \$ 200.00
Total Contested Motion for Issuance of a Subpoena Fees	= \$ 200.00

The Panel has assessed \$200.00 of the contested motion for issuance of a subpoena fees to First Midwest Securities, Inc.

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

One (1) Pre-hearing session with the Panel @ \$1,125.00/session Pre-hearing conference: January 17, 2013 1 session	= \$ 1,125.00
Thirteen (13) Hearing sessions @ \$1,125.00/session Hearing Dates: April 28, 2015 2 sessions	= \$14,625.00

April 29, 2015	2 sessions
April 30, 2015	2 sessions
May 1, 2015	1 session
May 20, 2015	3 sessions
May 21, 2015	2 sessions
June 24, 2015	1 session

Total Hearing Session Fees = \$15,750.00

The Panel has assessed \$15,750.00 of the hearing session fees to First Midwest Securities, Inc.

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

ARBITRATION PANEL

Robert L. Yeager, III	-	Public Arbitrator, Presiding Chairperson
Arthur H. Geffen	-	Public Arbitrator
Joseph Anthony Girgenti	-	Non-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

/s/ Robert L. Yeager, III
Robert L. Yeager, III
Public Arbitrator, Presiding Chairperson

07/02/15
Signature Date

/s/ Arthur H. Geffen
Arthur H. Geffen
Public Arbitrator

07/02/15
Signature Date

/s/ Joseph Anthony Girgenti
Joseph Anthony Girgenti
Non-Public Arbitrator

07/02/15
Signature Date

07/02/15
Date of Service (For FINRA Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

July 2, 2015

Signature Date

Arthur H. Geffen
Public Arbitrator

Signature Date

Joseph Anthony Girgenti
Non-Public Arbitrator

Signature Date

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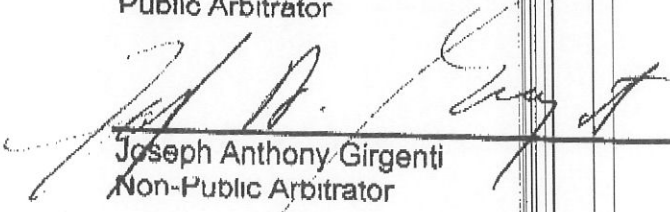
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