

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

William and Gloria Lotz,
William Brandenburg, William Quinn,
Jeffrey Temeyer, Leonard Kobliska,
Steven Lint, Rick Kayser,
Linda Wilson, Curtis Wilson,
Michael Decker, Angela Quinn,
and Sheila Fangman

Case Number: 21-01564

vs.

Respondents

CFD Investments, Inc.,
Dana Vietor, and
Ashley Vietor (Bolson)

Hearing Site: Des Moines, Iowa

Cross-Claimant

CFD Investments, Inc.

vs.

Cross-Respondent

Dana Vietor

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: Customers vs. Member and Associated Persons; Member vs. Associated Person; Associated Persons vs. Member; Associated Persons vs. Claimants

This case was decided by a majority-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimants William and Gloria Lotz (“W. Lotz” and “G. Lotz”), William Brandenburg (“Brandenburg”), William Quinn (“W. Quinn”), Jeffrey Temeyer (“Temeyer”), Leonard Kobliska (“Kobliska”), Steven Lint (“Lint”), Rick Kayser (“Kayser”), Linda Wilson (“L. Wilson”), Curtis Wilson (“C. Wilson”) (L. Wilson and C. Wilson collectively referred to as, “the Wilsons”), Michael Decker (“Decker”), Angela Quinn (“A. Quinn”), and Sheila Fangman (“Fangman”), hereinafter,

collectively referred to as “Claimants”: Gail E. Boliver, Esq., Boliver Law Firm, Marshalltown, Iowa and Matthew Craft, Esq., Dutton, Daniels, Hines, Kalkhoff, Cook & Swanson, P.L.C., Waterloo, Iowa.

For Respondent CFD Investments, Inc. (“CFD”): Gary S. Kessler, Esq. and Bryon L. Romine, Esq., Kessler & Collins, P.C., Dallas, Texas.

For Respondents Dana Viotor (“D. Viotor”), and Ashley Viotor (“Bolson”), hereinafter, collectively referred to as “the Vietors”: Andrew R. Shedlock, Esq., Kutak Rock, LLP, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: June 21, 2021.

Amended Statement of Claim filed on or about: August 24, 2021.

Statement of Answer to Counterclaim filed on or about: August 25, 2021.

W. Lotz, G. Lotz, Brandenburg, W. Quinn, and Kobliska signed Submission Agreements: June 22, 2021.

Temeyer signed the Submission Agreement: June 23, 2021.

Lint, Kayser, the Wilsons, Decker, A. Quinn, and Fangman signed Submission Agreements: August 25, 2021.

Statement of Answer and Cross-claim filed by CFD on or about: August 16, 2021.

Statement of Answer to Amended Statement of Claim and Cross-claim filed by CFD on or about: September 13, 2021.

CFD signed the Submission Agreement: August 13, 2021.

Statement of Answer and Counterclaims filed by the Vietors on or about: August 6, 2021.

Statement of Answer to Amended Statement of Claim and Counterclaims filed by the Vietors on or about: September 20, 2021.

Statement of Answer to Cross-claim filed by the Vietors on or about: September 20, 2021.

Vietors signed the Submission Agreement: December 8, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, Claimants asserted the following causes of action: misrepresentation, fraud–nondisclosure, negligent misrepresentation, breach of fiduciary duty, negligence, breach of contract, failure to supervise/respondent superior, violations of the Iowa Securities Act, and federal and state control person liability. The causes of action relate to Claimants’ allegations that as a part of a cancer treatment scheme, D. Viotor represented that Claimants would make profits from services provided to cancer patients by buying a building to house cancer treatment and other equipment, but D. Viotor and CFD never provided them with financial information after they surrendered annuities (some with hefty surrender charges) based on D. Viotor’s advice to place their funds in LLC notes. Claimants further alleged that the Vietors and CFD have not advised them of the current financial condition of their investments and that CFD took no supervisory action to protect investors and itself. The investments at issue included Texas CKLV, LLC, SRS Holdings, LLC (“SRS”), Texas Wide Bore, LLC, SRS Management, LLC, and ONCO Group, LLC.

Unless specifically admitted in the Amended Statement of Answer and Cross-claim, CFD denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses. In the cross-claim, CFD asserted the following causes of action: express indemnification and implied or equitable indemnity. The causes of action relate to CFD's allegations that D. Vietor expressly agreed to indemnify it for, among other things, any losses, liabilities, claims, and damages resulting from his conduct or based upon any action or asserted failure or negligence by D. Vietor to comply with federal or state securities laws and regulations. CFD alleged that that D. Vietor misrepresented the nature of his involvement with SRS to CFD and if CFD is found liable to Claimants, it should be entitled to indemnity from D. Vietor.

Unless specifically admitted in the Statement of Answer to Amended Statement of Claim and Counterclaims, the Vietors denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses. In the Counterclaims, the Vietors asserted the following causes of action against Claimants: breach of contract, fraud, and indemnification. The causes of action relate to the Vietors' allegations that Claimants breached the terms of the SRS Operating Agreement and Subscription Agreements without justification.

Unless specifically admitted in the Statement of Answer to Counterclaim, Claimants denied the allegations made in the Counterclaim.

Unless specifically admitted in the Answer to the Cross-claim, the Vietors' denied the allegations made in the cross-claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimants requested compensatory damages in the amount of \$2,658,320.00; a minimum of \$10,633,280.00 in punitive damages; attorneys' fees, expert fees, and FINRA costs.

In the Statement of Answer to Amended Statement of Claim, CFD requested that the Panel dismiss Claimants' claims in full and award it any and all further relief for which it may show itself justly entitled. In the cross-claim, CFD requested an award against D. Vietor, for any amount the Panel awards against CFD to Claimants, attorneys' fees and costs, and any and all other relief for which it may show itself justly entitled.

In the Statement of Answer to the Amended Statement of Claim and Counterclaims, the Vietors requested an award in their favor dismissing Claimants' Statement of Claim in its entirety and with prejudice; an award in their favor and against Claimants pursuant to their Counterclaims; attorneys' fees, costs, and interest incurred in defense of Claimants' Statement of Claim; and any and all such other relief as the Panel deems necessary following a final hearing in this matter.

In the Statement of Answer to Counterclaims, Claimants requested that the Counterclaims be dismissed with costs to be taxed to the Vietors including, but not limited to, attorneys' fees and expenses incurred to defend the filing, and an additional \$10,000,000.00 in damages as a result of the Counterclaims.

In the Statement of Answer to Cross-claims, the Vietors requested an award against CFD for costs and reasonable attorneys' fees; fees; and such other and further relief as the Panel deems

just and necessary under the facts and circumstances of this case.

At the hearing, Claimants requested a total of \$20,000,000.00, which included compensatory and punitive damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 20, 2021, the Vietors filed a Motion to Dismiss (“Motion to Dismiss”) pursuant to Rules 12503, 12504, and 12206 of the Code of Arbitration Procedure (“Code”). The same day, the Vietors filed a Memorandum of Law in Support of their Motion to Dismiss. On September 30, 2021, Claimants filed a response opposing the Motion to Dismiss. On October 6, 2021, the Vietors filed a Memorandum of Law in Support of their Motion to Dismiss Claimants’ Amended Statement of Claim. On October 22, 2021, Claimants filed a response to the Vietors’ Memorandum of Law in Support of their Motion to Dismiss Claimants’ Amended Statement of Claim. On October 27, 2021, the Vietors filed a Reply Memorandum of Law in Support of their Motion to Dismiss.

On August 26, 2021, Claimants filed a Motion to Strike Portions of the Vietors’ Answer (“Motion to Strike”). On September 2, 2021, the Vietors filed a Memorandum of Law in Opposition to Claimants’ Motion to Strike. On November 29, 2021, the Panel heard oral arguments on the Motion to Dismiss and Motion to Strike. In an Order dated November 29, 2021, the Panel denied the Motion to Dismiss and Motion to Strike.

On June 9, 2022, Claimants filed a (Renewed) Motion to Compel Production of Documents and Information Against Vietors and Request for Sanctions (“Request for Sanctions”). On June 17, 2022, Vietors filed a Memorandum of Law in Opposition to the Request for Sanctions. In an Order dated August 15, 2022, the Panel denied the Request for Sanctions.

On September 16, 2022, CFD filed a notice of voluntary dismissal of its cross-claim against D. Vietor without prejudice. On September 21, 2022, CFD filed notice that D. Vietor agreed to CFD’s dismissal of its cross-claim against him without prejudice. Accordingly, the Panel made no determinations with respect to any of the relief requests contained CFD’s cross-claim against D. Vietor.

Lint did not appear at the evidentiary hearing. Lint’s counsel advised the Panel that Lint would not be proceeding with his claims.

CFD did not appear at the evidentiary hearing. Upon review of the file, the Panel determined that CFD received due notice of the hearing and that arbitration of the matter would proceed without CFD present, in accordance with the Code.

On October 7, 2022, the Vietors filed a Motion to Dismiss (“Second Motion to Dismiss”) pursuant to Rule 12206 of the Code. On October 17, 2022, Claimants filed a response in Opposition to the Second Motion to Dismiss. On October 24, 2022, the Vietors filed a Reply Memorandum of Law in Support of their Second Motion to Dismiss. During the evidentiary hearing, the Panel heard oral

arguments on the Second Motion to Dismiss. Herein, the Panel denies the Second Motion to Dismiss.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. D. Vietor is liable for and shall pay to Claimants (except Lint) compensatory damages in the following sums:

a. Claimant W. Lotz:	\$338,561.00
b. Claimant G. Lotz:	\$558,084.00
c. Claimant Brandenburg:	\$369,848.00
d. Claimant W. Quinn:	\$171,300.00
e. Claimant Temeyer:	\$1,927,290.00
f. Claimant Kobliska:	\$82,480.00
g. Claimant Fangman:	\$178,725.00
h. Claimant A. Quinn:	\$126,480.00
i. Claimant Decker:	\$154,900.00
j. Claimants Wilsons:	\$52,509.00
k. Claimant Kayser:	\$315,000.00

2. D. Vietor is liable for and shall pay to each Claimant (except Lint) costs in the sum of \$1,941.00.

3. D. Vietor is liable for and shall pay Claimants (except Lint) attorneys' fees pursuant to Iowa Securities Act Section 502.509 in the following sums:

a. Claimant W. Lotz:	\$112,854.00
b. Claimant G. Lotz:	\$186,028.00
c. Claimant Brandenburg:	\$123,282.00
d. Claimant W. Quinn:	\$57,100.00
e. Claimant Temeyer:	\$642,430.00
f. Claimant Kobliska:	\$27,493.00
g. Claimant Fangman:	\$59,575.00
h. Claimant A. Quinn:	\$42,160.00
i. Claimant Decker:	\$51,633.00
j. Claimants the Wilsons:	\$17,503.00
k. Claimant Kayser:	\$105,000.00

4. D. Vietor is liable for and shall pay to Claimants \$800.00 to reimburse Claimants for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.

5. Lint's claims are dismissed without prejudice.

6. Claimants' claims against A. Vietor are denied in their entirety.
7. Claimants' claims against CFD are dismissed with prejudice.
8. The Vietors' Counterclaim against Claimants is denied in its entirety.
9. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages 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:

Initial Claim Filing Fee	=\$ 2,300.00
Counterclaim Filing Fee	=\$ 2,300.00
Cross-claim Filing Fee	=\$ 4,200.00

**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, CFD is assessed the following:

Member Surcharge	=\$ 4,325.00
Member Process Fee	=\$ 7,300.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

September 26-30, 2022, postponement requested by the Vietors	WAIVED
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Discovery-Related Motion Fees

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

Two (2) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	=\$ 400.00
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Claimants submitted one (1) discovery-related motion
Vietors submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	=\$ 400.00
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The Panel has assessed the total discovery-related motion fees to D. Vietor.

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), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: April 25, 2022	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,575.00/session	= \$	4,725.00
Pre-Hearing Conferences: October 15, 2021	1 session	
November 29, 2021	1 session	
August 10, 2022	1 session	
Twelve (12) hearing sessions @ \$1,575.00/session	= \$	18,900.00
Hearings: October 3, 2022	2 sessions	
October 4, 2022	2 sessions	
October 5, 2022	3 sessions	
October 6, 2022	2 sessions	
October 7, 2022	2 sessions	
October 26, 2022	1 session	

Total Hearing Session Fees = \$ 24,075.00

The Panel has assessed the total hearing session to D. Vietor.

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

ARBITRATION PANEL

Charles A. Palmer	-	Public Arbitrator, Presiding Chairperson
Peter C. Hildreth	-	Public Arbitrator
Steven C. Despotovich	-	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

Charles A. Palmer

Charles A. Palmer
Public Arbitrator, Presiding Chairperson

11/25/2022

Signature Date

Peter C Hildreth

Peter C. Hildreth
Public Arbitrator

11/25/2022

Signature Date

Steven C. Despotovich

Steven C. Despotovich
Non-Public Arbitrator

11/25/2022

Signature Date

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November 28, 2022

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