

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Patrick Shea and Mary Shea

Case Number: 17-00360

vs.

Respondents

Windsor Street Capital, LP and
Bruce Meyers

Hearing Site: Milwaukee, Wisconsin

Nature of the Dispute: Customers vs. Member and Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Patrick Shea and Mary Shea, hereinafter collectively referred to as "Claimants": Christopher Lufrano, Esq. and Adam Gana, Esq., Gana Weinstein LLP, New York, New York.

For Respondent Windsor Street Capital, LP ("Windsor"): Windsor was represented by counsel from on or about June 19, 2017, until on or about March 16, 2018. Raana Khan of Windsor appeared for the firm from on or about March 23, 2018, until on or about April 23, 2018, when Gregory S. Sparer, Esq., Baritz and Colman LLP, New York, New York, appeared on behalf of both Respondents. Baritz and Colman LLP withdrew from representation of Windsor on or about June 15, 2018.

For Respondent Bruce Meyers ("Meyers"): Gregory S. Sparer, Esq., Baritz & Colman LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 9, 2017.
Patrick Shea signed the Submission Agreement: February 9, 2017.
Mary Shea signed the Submission Agreement: February 9, 2017.

Statement of Answer filed by Windsor on or about: June 19, 2017.
Windsor did not sign the Submission Agreement.

Statement of Answer filed by Meyers on or about: March 9, 2018.
Meyers did not sign the Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: churning; unsuitable investment recommendations; fraudulent trades in violation of FINRA Rules, state blue sky laws, and Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934; violation of FINRA Rules 2010, IM-2310-2, and 2020; and failure to supervise broker conduct. The causes of action related to Claimants' allegations that Respondents failed to supervise the broker ("JA"), who Claimants asserted excessively and unlawfully traded unspecified securities in their accounts.

Unless specifically admitted in its Statement of Answer, Windsor denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested \$550,000.00 in compensatory damages, pre and post-judgment interest at the statutory rate, attorneys' fees, expert fees, forum fees, punitive damages, and such other and further relief as the Panel deems just and proper.

In its Statement of Answer, Windsor requested that the Panel enter an order dismissing the Statement of Claim in its entirety and awarding Windsor such other and further relief as may be deemed just and equitable, including without limitation its reasonable attorneys' fees and costs of arbitration.

In his Statement of Answer, Meyers requested that Claimants' Statement of Claim be dismissed in its entirety as to him, that he be awarded costs in connection the defense of this matter and such further relief as the Panel deems just and proper.

At the close of the hearing, Claimants requested \$1,380,804.00 in compensatory damages \$552,321.60 in attorneys' fees, forum fees, \$44,450.00 in sanctions (already imposed in prior Orders entered by the Panel), and punitive damages of \$4,142,412.00. Claimants waived their request for prejudgment interest on the record at the hearing.

OTHER ISSUES CONSIDERED AND DECIDED

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

Windsor 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, having answered the claim and appeared through counsel and a corporate representative prior to counsel's withdrawal, is bound by the determination of the Panel on all issues submitted.

Windsor did not appear at the evidentiary hearing. Upon review of the file and the representations made by Claimants, the Panel determined that Windsor has been properly served with the Statement of Claim, received due notice of the hearing, and that arbitration of the matter would proceed in Windsor's absence, in accordance with the Code.

Claimants filed a Motion for Sanctions Against Windsor ("Motion for Sanctions") on or about November 3, 2017. Claimants filed a Supplement to their Motion for Sanctions on or about November 20, 2017. Windsor did not file a response to Claimants' Motion for Sanctions. The Panel heard oral arguments on Claimants' Motion for Sanctions during a pre-hearing conference on February 20, 2018. Counsel for Claimants and counsel for Windsor appeared at this pre-hearing conference. In its Order dated February 20, 2018, the Panel awarded sanctions to Claimants against Windsor in the amount of \$5,000.00 to be paid within five (5) days of service of its Order, in addition to other stated relief.

Claimants filed a (Second) Motion for Sanctions against Windsor on or about March 6, 2018 ("Second Motion for Sanctions"). Windsor filed a Response to Claimants' Second Motion for Sanctions on or about March 16, 2018. Claimants filed a Reply Brief in Support of Their Second Motion for Sanctions on or about March 26, 2018. In its Order dated March 28, 2018, the Panel ordered Windsor to pay to Claimants the \$5,000.00 previously ordered on February 20, 2018, plus an additional sanction of \$1,000.00 within ten (10) days of service of its Order. The Panel further ordered that, should Windsor fail to comply with the Panel's Order, an additional sanction of \$100.00 per day would be assessed until the total sum due is paid. The Panel expressly reserved the right to assess additional sanctions in the event Windsor continued to defy the Panel's Orders.

Windsor filed a Motion to Postpone on or about March 23, 2018. Claimants filed an Opposition to Windsor's Motion to Postpone and Cross-Motion for Additional Sanctions ("Claimants' Cross-Motion for Sanctions") on or about April 9, 2018. Windsor did not file a response to Claimants' Cross-Motion for Sanctions. In its Order dated April 23, 2018, the Panel granted Windsor's Motion to Postpone, addressed rescheduling issues, and service issues regarding Meyer. The Panel further ordered that the previously ordered sanctions be paid by May 1, 2018, including any additional \$100.00 per day charges. The Panel awarded additional sanctions to Claimants against Windsor in the amount of \$2,000.00. The Panel expressly cautioned Windsor regarding additional penalties for failure to comply.

Claimants filed a Fourth Motion for Sanctions against Windsor ("Fourth Motion for Sanctions") on or about May 12, 2018. Windsor filed an Opposition to Claimants' Fourth Motion for Sanctions and Cross-Motion for Reconsideration of Prior Sanctions Orders ("Cross-Motion for Reconsideration") on or about May 21, 2018. In its Order dated June 6, 2018, the Panel granted Claimants' Fourth Motion for Sanctions and ordered Windsor to pay all sums due and owing to Claimants under the Panel's previous Orders within five (5) days of service of its Order. The Panel further ordered that, should Windsor fail to comply with its Order, Windsor shall pay to Claimants the sum of \$15,000.00 as additional sanctions, plus \$350.00 per day as further sanctions until all sums due and owing under all prior Orders are paid. The Panel's Order further

reflected that it had considered Windsor's Cross-Motion for Reconsideration and denied it on the merits.

Windsor filed a Motion to Include Non-Party JA ("Motion to Amend Answer to Include Third-Party Claim") on or about April 20, 2018. Claimants filed an Opposition to Windsor's Motion to Amend Answer to Include Third-Party Claim on or about April 20, 2018. JA filed a Response to Windsor's Motion to Amend Answer to Include Third-Party Claim on or about June 21, 2018.

Meyers filed a Motion to Dismiss on or about May 9, 2018. Claimants filed an Opposition to Meyers' Motion to Dismiss on or about May 12, 2018.

In its Order dated June 21, 2018, the Panel stated that it would hear oral arguments on Windsor's Motion to Amend Answer to Include Third-Party Claim and Meyers' Motion to Dismiss on July 5, 2018.

Claimants filed a Request for Default Judgment Against Windsor on or about June 21, 2018.

The Panel conducted a telephonic pre-hearing conference on July 5, 2018. The pre-hearing conference was attended by Claimants, Meyers, and JA. Windsor did not appear at the pre-hearing conference. During the pre-hearing conference, Claimants requested that the evidentiary hearing be held by telephone and Meyers requested adjournment of the evidentiary hearing. In its Order dated July 5, 2018, the Panel denied Windsor's Motion to Amend Answer to Include Third-Party Claim, Meyers' Motion to Dismiss, Claimants' Motion for Default Judgment Against Windsor, Claimants' (oral) Motion to Conduct the Hearing by Telephone, and Meyers' (oral) Motion to Adjourn the Hearing.

At the evidentiary hearing, Claimants advised the Panel on the record that they had reached a settlement with Meyers. Accordingly, the Panel did not adjudicate any issues against Meyers at the evidentiary hearing.

In its Order dated July 24, 2018, the Panel requested that post-hearing submissions be filed by August 1, 2018. Claimants filed a post-hearing submission on or about July 30, 2018.

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

1. Windsor is liable for and shall pay to Claimants the sum of \$1,380,804.00 in compensatory damages.

2. Windsor is liable for and shall pay to Claimants interest on the above-stated sum at the rate of 5% per annum, from and including the date of service of this Award, through and including the date this Award is paid in full.
3. Windsor is liable for and shall pay to Claimants the sum of \$3,000,000.00 in punitive damages pursuant to Wis. Stats. § 895.043 and Mastrobuono v. Shearson Lehman Hutton, Inc., 514 U.S. 52 (1995).
4. Windsor is liable for and shall pay to Claimants the sum of \$552,321.60 in attorneys' fees pursuant to Wis. Stats. § 551.509.
5. Windsor is liable for and shall pay to Claimants the sum of \$44,450.00 in accrued sanctions pursuant to the Panel's Orders issued during the course of this matter. The accrual of additional daily charges specified in the Panel's Orders is terminated.
6. Windsor is liable for and shall pay to Claimants the sum of \$425.00 as reimbursement for the non-refundable portion of Claimants' filing fee.
7. 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 Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	=\$ 1,725.00
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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 party, Windsor is assessed the following:

Member Surcharge	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

Postponement Fees

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

<u>April 30-May 3, 2018, postponement by Windsor</u>	<u>=\$1,300.00</u>
Total Postponement Fees	=\$1,300.00

The Panel has assessed \$1,300.00 of the postponement fees to Windsor.

Discovery-Related Motion Fees

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

One (1) decision on a discovery-related motion on the papers
with one (1) arbitrator @ \$200.00/decision = \$ 200.00

Two (2) decisions on discovery-related motions on the papers
with three (3) arbitrators @ \$600.00/decision = \$ 1,200.00

Claimants submitted three (3) discovery-related motions
Total Discovery-Related Motion Fees = \$ 1,400.00

The Panel has assessed \$1,400.00 of the discovery-related motion fees to Windsor.

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:

Four (4) pre-hearing sessions with the Panel @ \$1,300.00/session = \$ 5,200.00
Pre-hearing conferences: June 26, 2017 1 session
February 20, 2018 1 session
April 17, 2018 1 session
July 5, 2018 1 session

One (1) hearing session @ \$1,300.00/session = \$ 1,300.00
Hearing Date: July 17, 2018 1 session

Total Hearing Session Fees = \$ 6,500.00

The Panel has assessed \$6,500.00 of the hearing session fees to Windsor.

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

ARBITRATION PANEL

David E. Jarvis	-	Public Arbitrator, Presiding Chairperson
Tracy L. Allen	-	Public Arbitrator
Michael S. Jordan	-	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



David E. Jarvis
Public Arbitrator, Presiding Chairperson

8/13/2018

Signature Date

Tracy L. Allen
Public Arbitrator

Signature Date

Michael S. Jordan
Public Arbitrator

Signature Date

08/13/18

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

David E. Jarvis	-	Public Arbitrator, Presiding Chairperson
Tracy L. Allen	-	Public Arbitrator
Michael S. Jordan	-	Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date



Tracy L. Allen
Public Arbitrator



Signature Date

Michael S. Jordan
Public Arbitrator

Signature Date

08/13/18

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Tracy L. Allen	-	Public Arbitrator
Michael S. Jordan	-	Public Arbitrator

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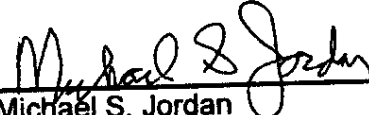
Concurring Arbitrators' Signatures

David E. Jarvis
Public Arbitrator, Presiding Chairperson

Signature Date

Tracy L. Allen
Public Arbitrator

Signature Date



Michael S. Jordan
Public Arbitrator

8/11/18

Signature Date

08/13/18

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