

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimants

Glenn K Hourigan
Amy R Hourigan
IRA FBO Amy R. Hourigan
IRA FBO Glenn K. Hourigan

Case Number: 18-00118

vs.

Respondents

Woodbury Financial Services, Inc.
Cetera Advisors LLC
Investors Capital Corp.
Robert Scott Ginsberg
Ginsberg Financial Advising

Hearing Site: Hartford, Connecticut

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. Members, Associated Person, and Non-Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimants Glenn K Hourigan, Amy R Hourigan, IRA FBO Amy R. Hourigan, and IRA FBO Glenn K. Hourigan: Bruce D. Oakes, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent Woodbury Financial Services, Inc (“Woodbury”): Greg Curley, Esq., Advisor Group, Jersey City, New Jersey.

For Respondents Cetera Advisors LLC (“Cetera”), and Investors Capital Corp. (“ICC”): Brian J. Palmeri, Esq., and Meghan K. Daley, Esq., Winget, Spadafora & Schwartzberg, LLP, Stamford, Connecticut. Cetera and ICC are hereinafter collectively referred to as “ICC Respondents”.

For Respondents Robert Scott Ginsberg (“Ginsberg”), and Ginsberg Financial Advising (“Ginsberg Financial”): Barry Temkin, Esq., and Kate Digeronimo, Esq., Mound Cotton Wollan & Greengrass, LLP, New York, New York. Ginsberg and Ginsberg Financial are hereinafter collectively referred to as “Ginsberg Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: January 10, 2018.

Amy R Hourigan signed the Submission Agreement: January 10, 2018.

Glenn K Hourigan signed the Submission Agreement: January 10, 2018.

IRA FBO Amy R. Hourigan signed the Submission Agreement: January 10, 2018.

IRA FBO Glenn K. Hourigan signed the Submission Agreement: January 10, 2018.

Statement of Answer filed by Respondent Woodbury Financial Services, Inc. on or about: March 20, 2018.

Woodbury Financial Services, Inc. signed the Submission Agreement: March 20, 2018.

Joint Statement of Answer filed by ICC Respondents on or about: April 18, 2018.

Cetera signed the Submission Agreement: April 18, 2018.

ICC signed the Submission Agreement: April 18, 2018.

Joint Statement of Answer filed by Ginsberg Respondents on or about: April 4, 2018.

Ginsberg signed the Submission Agreement: April 11, 2018.

Ginsberg Financial signed the Submission Agreement: April 11, 2018.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: violation of FINRA Rule § 2020, breach of fiduciary duties, negligence, failure to supervise, suitability, misrepresentation, negligent misrepresentation, breach of the covenant of good faith and fair dealing, violation of the Investment Advisers Act of 1940 § 206, and violation of the Connecticut Uniform Securities Act. The causes of action relate to investments in non-traded REITs, penny stocks, oil and gas schemes.

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

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

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in an amount equal to at least \$1,000,000.00, or greater amount to be proven at the arbitration; statutory damages; punitive and exemplary damages; attorneys' fees, costs, expenses, and interest; and such other and further relief as deemed just, fair, and proper.

In the Statement of Answer, Respondent Woodbury requested that the Panel dismiss the Claimants' Statement of Claim against it in its entirety and order any other and further relief as the Panel may deem to be just and equitable.

In the Statement of Answer, the ICC Respondents requested an award dismissing the Statement of Claim; and granting such other and further relief as the Panel deems just and appropriate.

In the Statement of Answer, the Ginsberg Respondents requested that the Statement of Claim be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 23, 2020, Claimant dismissed Respondent Woodbury Financial Services, Inc. without prejudice, pursuant to Rule 12702 of the Code of Arbitration Procedure.

On June 24, 2021, Claimant filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On August 16, 2021, the ICC Respondents and the Ginsberg Respondents filed an Unopposed Motion for Entry of a Stipulated Award. On October 19, 2021, the Panel granted the motion.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of the parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. Claimants and the ICC Respondents entered into a settlement in FINRA Case Number 18-

00118.

2. The aforementioned settlement between Claimants and the ICC Respondents included a release of the Ginsberg Respondents.
3. The ICC Respondents and Ginsberg Respondents also entered into a settlement amongst themselves.
4. Therein, the Ginsberg Respondents agreed to make certain payments to the ICC Respondents in an amount certain and for a period certain.
5. In the event of a default by the Ginsberg Respondents of the terms of the Settlement Agreement & Release, the ICC Respondents are entitled to the remaining monies owed under the Settlement Agreement & Release.
6. The ICC Respondents shall confirm this Stipulated Award in a court of competent jurisdiction if the Ginsberg Respondents default on the terms of the Settlement Agreement & Release.

FEES

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees* for each claim:

| | |
|--------------------------|--------------|
| Initial Claim Filing Fee | =\$ 2,000.00 |
|--------------------------|--------------|

**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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents Woodbury Financial Services, Inc.; Cetera Advisors LLC; and Investors Capital Corp. are each assessed the following:

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|--------------------|--------------|
| Member Surcharge | =\$ 3,025.00 |
| Member Process Fee | =\$ 6,175.00 |

Postponement Fees

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

November 19-22, 2019, postponement requested by the parties. WAIVED

Discovery-Related Motion Fees

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

Five (5) decisions on discovery-related motions on the papers =\$ 1,000.00
with one (1) Arbitrator @ \$200.00/decision

Claimants submitted two (2) discovery-related motions
Ginsberg Respondents submitted three (2) discovery-related motions
ICC Respondents submitted One (1) discovery-related motion

Total Discovery-Related Motion Fees =\$ 1000.00

The Panel has assessed \$500.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$500.00 of the discovery-related motion fees jointly and severally to Respondents.

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

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session =\$ 900.00
Pre-Hearing Conferences: October 22, 2018 1 session
July 17, 2019 1 session

Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session =\$ 5,600.00
Pre-Hearing Conferences: June 11, 2018 1 session
June 4, 2019 1 session
December 2, 2019 1 session
November 10, 2020 1 session

Decision on the papers: =\$ 300.00

Total Hearing Session Fees =\$ 6,800.00

The Panel has assessed \$3,400.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$2,550.00 of the hearing session fees jointly and severally to Respondents.

The Panel assessed \$850.00 of the hearing session fees jointly and severally to Ginsberg Respondents and ICC Respondents.

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

ARBITRATION PANEL

| | | |
|-----------------------|---|--|
| Charles W. Danis, Jr. | - | Public Arbitrator, Presiding Chairperson |
| Mae A. Brudner | - | Public Arbitrator |
| Eileen Devaney Leo | - | 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 W. Danis, Jr.

Charles W. Danis, Jr.
Public Arbitrator, Presiding Chairperson

10/29/2021

Signature Date

Mae A. Brudner

Mae A. Brudner
Public Arbitrator

10/29/2021

Signature Date

Eileen Devaney Leo

Eileen Devaney Leo
Non-Public Arbitrator

11/04/2021

Signature Date

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.

November 05, 2021

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

