

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Russell Cascardo
AGS Underground
George Berkey
Gary Bridgers
Bennie Carmain
Lawrence R. Clarke
John Daniels
Ettinger Family Trust
John Eversgerd
James K. Stewart and Deborah J. Stewart
James Michael Lyon
Richard Myers
Viktor Prozapas
William Rice
Tayskasi Oy
William J. Kampa and Debra P. Kampa

Case Number: 18-01055

vs.

Respondents

Saloman Whitney Financial (aka SW Financial)
Dimitrios Aivaliotis
Eric Scott Baron
Thomas Diamante
Joseph Augustien Lianzo
Reynold Frank Vaughan, III
Gary Bruce Weiss
Michael John Giovannelli
Kevin Charles Harms
Douglas Anthony Leone
Praxedes Russi
Yousuf Saljooki
Andrew Caputo Spaventa
Ahmad Wares
Shawn Evan Burns
Lawrence John Fawcett
Patrick Joseph Ferraro
Michael Lawrence Oromaner
John Vincent Prinzivalli

Hearing Site: New York, New York

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Russell Cascardo, AGS Underground, George Berkey, Gary Bridgers, Bennie Carmain, Lawrence R. Clarke, John Daniels, Ettinger Family Trust, John Eversgerd, James K. Stewart and Deborah J. Stewart, James Michael Lyon, Richard Myers, Viktor Prozapas, William Rice, Tayskasi Oy, and William J. Kampa and Debra P. Kampa: Jennifer Tarr, Cold Spring Advisory Group, New York, New York, and Jonathan E. Neuman, Esq., Law Offices of Jonathan E. Neuman, Esq., New York, New York.

For Respondents Salomon Whitney Financial (“SW Financial”), Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, Andrew Caputo Spaventa, and Gary Bruce Weiss: Charles M. O’Rourke, Esq., Woodbury, New York.

For Respondent Michael John Giovannelli: Robert M. Bursky, Esq., Melville, New York.

Respondents Kevin Charles Harms, Douglas Anthony Leone, Praxedes Russi, Yousuf Saljooki, and Ahmad Wares appeared pro se.

Respondents Shawn Evan Burns, Lawrence John Fawcett, Patrick Joseph Ferraro, Michael Lawrence Oromaner, and John Vincent Prinzivalli did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: March 19, 2018.

Amended Statement of Claim filed on or about: September 25, 2019.

Second Amended Statement of Claim filed on or about: March 12, 2021.

Opposition to Counterclaim filed on or about: July 5, 2018.

Russell Cascardo signed the Submission Agreement: March 19, 2018.

AGS Underground signed the Submission Agreement: March 19, 2018.

George Berkey signed the Submission Agreement: March 19, 2018.

Gary Bridgers signed the Submission Agreement: March 19, 2018.

Bennie Carmain signed the Submission Agreement: March 19, 2018.

Lawrence R. Clarke signed the Submission Agreement: March 19, 2018.

John Daniels signed the Submission Agreement: March 19, 2018.

Ettinger Family Trust signed the Submission Agreement: March 19, 2018.

John Eversgerd signed the Submission Agreement: March 19, 2018.

James K. Stewart and Deborah J. Stewart signed the Submission Agreement: March 19, 2018.

James Michael Lyon signed the Submission Agreement: March 19, 2018.

Richard Myers signed the Submission Agreement: March 19, 2018.
Viktor Prozapas signed the Submission Agreement: March 19, 2018.
William Rice signed the Submission Agreement: March 19, 2018.
Tayskasi Oy signed the Submission Agreement: March 19, 2018.
William J. Kampa and Debra P. Kampa signed the Submission Agreement: March 19, 2018.

Joint Statement of Answer and Counterclaim filed by Respondents SW Financial, Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, and Gary Bruce Weiss on or about: June 15, 2018.
SW Financial signed the Submission Agreement: June 13, 2018.
Dimitrios Aivaliotis signed the Submission Agreement: June 7, 2018.
Eric Scott Baron signed the Submission Agreement: June 7, 2018.
Thomas Diamante signed the Submission Agreement: June 13, 2018.
Joseph Augustien Lianzo signed the Submission Agreement: June 8, 2018.
Reynold Frank Vaughan, III signed the Submission Agreement: June 8, 2018.
Gary Bruce Weiss signed the Submission Agreement: June 13, 2018.

Statement of Answer filed by Respondent Kevin Charles Harms on or about: September 14, 2018.
Kevin Charles Harms signed the Submission Agreement: September 24, 2018.

Statement of Answer filed by Respondent Douglas Anthony Leone on or about: May 21, 2018.
Douglas Anthony Leone signed the Submission Agreement: June 6, 2018.

Statement of Answer filed by Respondent Praxedes Russi on or about: May 23, 2018.
Praxedes Russi signed the Submission Agreement: May 31, 2018.

Statement of Answer filed by Respondent Andrew Caputo Spaventa on or about: April 27, 2018.
Andrew Caputo Spaventa signed the Submission Agreement: May 7, 2018.

Statement of Answer filed by Respondent Ahmad Wares on or about: July 20, 2018.
Ahmad Wares signed the Submission Agreement: July 23, 2018.

Statement of Answer to the Amended Statement of Claim filed by Respondent Yousuf Saljooki on or about: May 4, 2021.
Yousuf Saljooki did not sign the Submission Agreement.

Michael John Giovannelli did not file a Statement of Answer or sign the Submission Agreement.
Shawn Evan Burns did not file a Statement of Answer or sign the Submission Agreement.
Lawrence John Fawcett did not file a Statement of Answer or sign the Submission Agreement.
Patrick Joseph Ferraro did not file a Statement of Answer or sign the Submission Agreement.
Michael Lawrence Oromaner file a Statement of Answer or did not sign the Submission Agreement.
John Vincent Prinzivalli did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim Claimants asserted the following causes of action: churning; negligence and unsuitability; failure to supervise; unauthorized

trading; breach of fiduciary duty; breach of contract; unjust enrichment; negligent misrepresentation and omissions. The causes of action relate to unspecified securities.

In the Statement of Answer, Respondents SW Financial, Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, and Gary Bruce Weiss denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent Andrew Caputo Spaventa denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent Douglas Leone denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent Praxedes Russi denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent Kevin Wares denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent Kevin Charles Harm denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer to the Amended Statement of Claim, Respondent Yousuf Saljooki denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

In the Counterclaim, Respondents SW Financial, Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, and Gary Bruce Weiss asserted the following cause of action: malicious prosecution.

In the Statement of Answer to the Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in the total amount of \$2,062,885.00; treble damages in the amount of \$6,188,655.00; interest; lost opportunity damages; punitive damages; disgorgement of commissions and fees; and such other and further relief as the Panel may deem appropriate.

In the Statement of Answer and Counterclaim, Respondents SW Financial, Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, and Gary Bruce Weiss requested that all Claimants' claims be dismissed; and an award of damages for \$5,000,000.00, or such other amounts as will be proven at hearing; attorneys' fees; expungement; and costs.

In the Statement of Answer, Respondent Andrew Spaventa requested that the claim and separate claims be dismissed in their entirety; this arbitration and all related matters be expunged from Respondent Andrew Spaventa's securities industry records; costs; and all forum fees and other fees associated with the defense of this action to be assessed against Claimants; and for such other and further relief as deemed appropriate.

In the Statement of Answer, Respondent Douglas Leone requested that Claimants' claims be denied.

In the Statement of Answer, Respondent Praxedes Russi requested that Claimants' claims be denied.

In the Statement of Answer, Respondent Kevin Wares requested that Claimants' claims be denied.

In the Statement of Answer, Respondent Kevin Charles Harms requested that Claimants' claims be denied.

In the Amended Statement of Claim, Claimants requested compensatory damages in the total amount of \$1,667,115.00; treble damages in the amount of \$5,001,345.00; interest; lost opportunity damages; punitive damages; disgorgement of commissions and fees; and such other and further relief as the Panel may deem appropriate.

In the Statement of Answer to the Amended Statement of Claim, Respondent Yousuf Saljooki requested that Claimants' claims be denied.

In the Second Amended Statement of Claim, Claimants requested compensatory damages in the total amount of \$1,709,112.00; treble damages of \$5,127,336.00; interest; lost opportunity damages; punitive damages; disgorgement of commissions and fees; and such other and further relief as the Panel may deem appropriate.

At the hearing, Claimant Bennie Carmain requested damages in the amount of \$40,588.75; and Claimant Richard Myers requested damages in the amount of \$24,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent Yousuf Saljooki did not file 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, is bound by the determination of the Panel on all issues submitted.

Respondents Shawn Evans Burns, Lawrence John Fawcett, Patrick Joseph Ferraro, Michael John Giovannelli, Michael Lawrence Oromaner and John Vincent Prinzivalli did not file Statements of Answer or properly executed Submission Agreements but, are required to submit to arbitration pursuant to the Code and bound by the determination of the Panel on all issues submitted.

On April 24, 2018, Claimants filed a notice of voluntary dismissal of Respondent Patrick Joseph Ferraro, Jr. with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On April 11, 2019, Claimants filed a notice of voluntary dismissal of Respondent Michael John Giovannelli with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On June 26, 2019, Claimants filed a notice of settlement and dismissal without prejudice against Respondents SW Financial, Thomas Diamante, Gary Bruce Weiss, Reynold Frank Vaughan III, Andrew Caputo Spaventa, Eric Scott Baron, Joseph Augustien Lianzo, Dimitrios Aivaliotis, and Praxedes Russi. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On August 21, 2019, Respondent Ahmad Wares filed for bankruptcy under the United States Bankruptcy Code. In accordance with these filings, all claims against Respondent Ahmad Wares are indefinitely stayed. Claimants removed Ahmed Wares as a Respondent in the Second Amended Statement of Claim filed on or about March 12, 2021. Therefore, the Panel made no determination with respect to the claims against Respondent Ahmad Wares.

On September 25, 2019, Claimants filed a Motion for Leave to Amend Statement of Claim. Respondents did not file a response to the motion. On May 1, 2020, the Panel granted Claimants' Motion for Leave to Amend Statement of Claim.

On December 16, 2019, Claimants filed a notice of settlement and dismissal with prejudice against Respondent Andrew Caputo Spaventa. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim and Amended Statement of Claim.

On February 11, 2020, Claimant filed a notice of settlement and dismissal with prejudice against Respondent Praxedes Russi. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim and Amended Statement of Claim.

On March 12, 2021, Claimants filed a Motion for Leave to Amend the Amended Statement of Claim. Respondents did not file a response to the motion. On May 19, 2021, the Panel granted Claimant's Motion for Leave to Amend the Amended Statement of Claim.

On March 19, 2021, Claimants filed a Motion to Bar Defenses and for Default Judgment against Respondent Yousuf Saljooki. On May 19, 2021, the Panel denied Claimants' Motion to Bar Defenses and for Default Judgment.

Respondents Kevin Charles Harms and Yousuf Saljooki did not appear at the evidentiary hearing. Upon review of the file, the Panel determined that Respondents Kevin Charles Harms and Yousuf Saljooki received due notice of the hearing and that arbitration of this matter would proceed without Respondents Kevin Charles Harms and Yousuf Saljooki present, in accordance with the Code.

On November 15, 2021, Respondent Yousuf Saljooki filed a Motion to Reopen the Hearing. On November 16, 2021, Claimants filed a Response to the Motion to Reopen the Hearing. By Order dated November 17, 2021, the Panel determined not to reopen the hearing.

The Panel made no determination on the requests for expungement filed by Respondent Dimitrios Aivaliotis, Eric Scott Baron, Thomas Diamante, Joseph Augustien Lianzo, Reynold Frank Vaughan, III, Gary Bruce Weiss and Andrew Spaventa.

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. Respondent Kevin Charles Harms is liable for and shall pay to Claimant Bennie Carmain the sum of \$40,588.75 in compensatory damages plus interest at the rate of 9% per annum from January 12, 2018 through and including date of payment of the award.
2. Respondent Yousuf Saljooki is liable for and shall pay to Claimant Richard Meyers the sum of \$12,000.00 in compensatory damages plus interest at the rate of 9% per annum from December 1, 2017 through and including date of payment of the award.
3. Respondent Yousuf Saljooki is liable for and shall pay to Claimant Lawrence R. Clarke the sum of \$365,528.00 in compensatory damages plus interest at the rate of 9% per annum from May 31, 2017 through and including date of payment of the award.
4. Respondent Yousuf Saljooki is liable for and shall pay to Claimant Tayskasi Oy the sum of \$70,000.00 in compensatory damages plus interest at the rate of 9% per annum from February 27, 2017 through and including date of payment of the award.
5. Respondent Yousuf Saljooki is liable for and shall pay to Claimant Gary Bridgers the sum of \$30,000.00 in compensatory damages plus interest at the rate of 9% per annum from December 20, 2017 through and including date of payment of the award.
6. Respondent Kevin Charles Harms is liable for and shall pay to Claimant John Daniels the sum of \$4,000.00 in compensatory damages plus interest at the rate of 9% per annum from January 5, 2017 through and including date of payment of the award.
7. Respondent Yousuf Saljooki is liable for and shall pay to Claimant Russell Cascardo the sum of \$270,000.00 in compensatory damages plus interest at the rate of 9% per annum from December 29, 2017 through and including payment of award.
8. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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	= \$ 2,250.00
Counterclaim Filing Fee	= \$ 3,400.00

**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, Respondent SW Financial is assessed the following:

Member Surcharge	= \$ 3,600.00
Member Process Fee	= \$ 6,800.00

Postponement Fees

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

June 3-7, 2019, postponement requested by Respondents SWF, Diamante, Weiss, Vaughan, Baron, Lianzo, Spaventa, and Aivaliotis.	= \$ 1,500.00
July 15-19, 2019, postponement requested by Claimants	= \$ 1,500.00

Total Postponement Fees	= \$ 3,000.00
-------------------------	---------------

The Panel has assessed \$2,250.00 of the postponement fees jointly and severally to Claimants.

The Panel has assessed \$750.00 of the postponement fees jointly and severally to Respondents.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

July 15-19, 2019, cancellation requested by Claimants	= \$ 1,800.00
---	---------------

Total Last-Minute Cancellation Fees	= \$ 1,800.00
-------------------------------------	---------------

The Panel has assessed \$1,800.00 of the last-minute cancellation fees jointly and severally to Claimants.

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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$ 450.00
Pre-Hearing Conference: April 24, 2019	1 session

Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session		= \$	4,500.00
Pre-Hearing Conferences: September 25, 2019	1 session		
March 23, 2021	1 session		
April 28, 2021	1 session		
Four (4) hearing sessions @ \$1,500.00/session		= \$	6,000.00
Hearings: November 10, 2021	2 sessions		
November 12, 2021	2 sessions		
<hr/>			
Total Hearing Session Fees		= \$	10,950.00

The Panel has assessed \$2,475.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$975.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$7,500.00 of the hearing session fees jointly and severally to Respondents Kevin Charles Harms and Yousuf Saljooki.

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

ARBITRATION PANEL

Rory M. McLaughlin	-	Public Arbitrator, Presiding Chairperson
Joseph J. Arata	-	Public Arbitrator
Jerome M Shafer	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Rory M. McLaughlin

Rory M. McLaughlin
Public Arbitrator, Presiding Chairperson

12/22/2021

Signature Date

Joseph J. Arata

Joseph J. Arata
Public Arbitrator

12/22/2021

Signature Date

Jerome M Shafer

Jerome M Shafer
Public Arbitrator

12/15/2021

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.

December 28, 2021

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