

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

Patrick Shea and Mary Shea

Case Number: 18-03854

vs.

Respondent

COR Clearing, LLC

Hearing Site: Milwaukee, Wisconsin

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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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Patrick Shea and Mary Shea (“Claimants”): Bruce D. Oakes, Esq. and Richard B. Foshier, Esq., Oakes & Foshier, LLC, St. Louis, Missouri.

For Respondent COR Clearing, LLC (“Respondent”): Carl S. Burkhalter, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: November 7, 2018.

Claimants signed the Submission Agreement: October 12, 2018.

Statement of Answer filed on or about: January 25, 2019.

Respondent signed the Submission Agreement: January 24, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimants alleged that Respondent acting as a clearing agent for Claimants’ accounts, should have detected fraudulent conduct occurring in Claimants’ accounts, but failed to do so, or it otherwise ignored the conduct, allowing the conduct to continue unabated.

Unless specifically admitted in the Statement of Answer, Respondent 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 the total approximate amount of \$1,500,000.00, attorneys' fees, costs, interest, and punitive damages.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed and that the costs of this proceeding be assessed against Claimants.

At the hearing, Claimants requested \$2,610,044.00 in compensatory damages; attorneys' fees totaling 40% of the gross recovery amount; \$48,379.49 in costs; punitive damages in an amount or multiple which the Panel deems just and proper; and interest at the Wisconsin legal rate of 5% awarded on the compensatory damages amount from February 28, 2017, the date the account was closed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On September 6, 2019, Respondent filed a Motion to Dismiss pursuant to Rule 12504 of the Code of Arbitration Procedure ("Code"). On October 21, 2019, Claimants filed a response opposing the Motion to Dismiss. On November 4, 2019, Respondent filed a reply in support of its Motion to Dismiss. On January 8, 2020, the Panel heard oral arguments on the Motion to Dismiss. In an Order dated January 9, 2021, the Panel denied the 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. Claimants' claims are denied in their entirety.
2. 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 = \$ 2,000.00

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

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 5-8, 2019, postponement requested by the parties	= \$ 1,400.00
June 17-18, 2021, postponement requested by Claimants	= \$ 1,400.00

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Total Postponement Fees	= \$ 2,800.00
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The Panel has assessed the total postponement fees to Respondent.

**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:

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

June 17-18, 2021, cancellation requested by Claimants	= \$ 1,800.00
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Total Last-Minute Cancellation Fees	= \$ 1,800.00
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The Panel has assessed the total last-minute cancellation fees to Respondent.

**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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Respondent submitted two (2) discovery-related motions

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

**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: August 26, 2019	1 session	
Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	5,600.00
Pre-Hearing Conferences: February 28, 2019	1 session	
January 8, 2020	1 session	
June 23, 2020	1 session	
July 6, 2021	1 session	
Eleven (11) hearing sessions @ \$1,400.00/session	= \$	15,400.00
Hearings: June 15, 2021	2 sessions	
June 16, 2021	1 session	
October 26, 2021	2 sessions	
October 27, 2021	2 sessions	
October 28, 2021	2 sessions	
October 29, 2021	2 sessions	

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Total Hearing Session Fees = \$ 21,450.00

The Panel has assessed the total hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Michael J. Meeusen	-	Public Arbitrator, Presiding Chairperson
Robert J. Scafuri	-	Public Arbitrator
Michael Jay Buffoni	-	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**

***Michael J. Meeusen***

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Michael J. Meeusen  
Public Arbitrator, Presiding Chairperson

***11/13/2021***

\_\_\_\_\_  
Signature Date

***Robert J. Scafuri***

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Robert J. Scafuri  
Public Arbitrator

***11/12/2021***

\_\_\_\_\_  
Signature Date

***Michael Jay Buffoni***

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Michael Jay Buffoni  
Public Arbitrator

***11/12/2021***

\_\_\_\_\_  
Signature Date

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November 15, 2021

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