

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Teena Kathleen Clifton

Case Number: 19-00282

vs.

Respondent
Koss Olinger and Company, LLC

Hearing Site: Jacksonville, Florida

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: Customer vs. Non-Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Teena Kathleen Clifton (“Claimant”): Jon A. Jacobson, Esq., Jacobson Law PA, West Palm Beach, Florida.

For Respondent Koss Olinger and Company, LLC (“Respondent”): Andrew Thomson, Esq., Baritz & Colman LLP, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 23, 2019.
Claimant signed the Submission Agreement: January 27, 2019.

Statement of Answer filed on or about: April 17, 2019.
Respondent signed the Submission Agreement: February 5, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligence and breach of fiduciary duty. The causes of action relate to Claimant’s allegation that Respondent was negligent in failing to change the beneficiary designation on one of her aunt’s accounts when it changed the beneficiary designation on a second account. Claimant alleged that she was damaged, as it was the intent of her aunt that Claimant be the sole beneficiary on both accounts. Claimant alleged that Respondent permitted Claimant’s brother to make inappropriate withdrawals from her aunt’s account after her brother’s power of attorney had been revoked. Claimant further alleged that Respondent breached their duty to her aunt by failing to question

the amounts and frequency of withdrawals made by her brother before his power of attorney was revoked.

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, Claimant requested damages of at least \$392,137.96, litigation fees and costs, interest, and such other and further relief as the Panel deems just.

In the Statement of Answer, Respondent requested that this action be dismissed in its entirety; an award of its costs incurred in connection with its defense of this matter; and such further relief as the Panel deems just and proper.

At the hearing, Claimant requested an award of \$667,715.38 for compensatory damages, disgorgement, consequential damages, pre- and post-award interest, costs, and attorneys' fees.

At the hearing, Respondent made an oral request for expungement, on behalf of Unnamed Party William James Rossi, III ("Rossi"), of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel considered Respondent's request for expungement on behalf of Rossi, as part of the recorded evidentiary hearing in this matter.

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 is liable for and shall pay to Claimant the sum of \$237,553.05 in compensatory damages.
2. Respondent's request for expungement on behalf of Unnamed Party Rossi (CRD Number 2909610) of Occurrence Numbers 1979428 and 1979429 from registration records maintained by the CRD is denied.
3. 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 of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 1,425.00

**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 = \$ 1,900.00

Member Process Fee = \$ 3,750.00

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: February 14, 2020 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00
Pre-Hearing Conferences: July 10, 2019 1 session
September 28, 2020 1 session
May 3, 2021 1 session WAIVED

Six (6) hearing sessions @ \$1,125.00/session = \$ 6,750.00
Hearings: November 1, 2021 2 sessions
November 2, 2021 2 sessions
November 3, 2021 2 sessions

Total Hearing Session Fees = \$ 9,450.00

The Panel has assessed \$4,725.00 of the hearing session fees to Claimant.

The Panel has assessed \$4,725.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Gayle B. Carlson	-	Public Arbitrator, Presiding Chairperson
Brian Michael Kane	-	Public Arbitrator
Pamela Jeanne Rush	-	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

Gayle B. Carlson

Gayle B. Carlson
Public Arbitrator, Presiding Chairperson

11/19/2021

Signature Date

Brian Michael Kane

Brian Michael Kane
Public Arbitrator

11/22/2021

Signature Date

Pamela Jeanne Rush

Pamela Jeanne Rush
Non-Public Arbitrator

11/19/2021

Signature Date

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November 22, 2021

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