

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

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In the Matter of the Arbitration Between:

Claimant  
Barbara Conover

Case Number: 19-02371

vs.

Respondent  
Lincoln Financial Advisors Corp.

Hearing Site: Baltimore, Maryland

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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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Barbara Conover (“Claimant”): Thomas C. Costello, Esq., Costello Law Group, Towson, Maryland.\*

For Respondent Lincoln Financial Advisors Corp. (“Respondent”): Paula D. Shaffner, Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, Pennsylvania.

\*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: August 19, 2019.  
Claimant signed the Submission Agreement: July 30, 2019.

Statement of Answer filed on or about: November 8, 2019.  
Respondent signed the Submission Agreement: August 30, 2019.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: fraud, constructive fraud, negligent misrepresentation/omission, breach of contract, negligence, and violation of Maryland Securities Act §11-101 et seq. The causes of action relate to Claimant's allegation that, as a result of unsuitable advice from Respondent's registered representative, Unnamed Party Peter D. Maller ("Maller"), by the end of 2014 more than 60% of Claimant's savings were invested in illiquid products like annuities and private placement securities and more than 30% of her savings were in non-publicly traded real estate investment trusts and oil and gas limited partnerships.

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 compensatory damages in an amount to be determined at hearing, interest at the statutory rate, attorneys' fees, costs, and such other and further relief as justice may require.

In the Statement of Answer, Respondent requested that Claimant's claims be denied in their entirety; that all costs of this proceeding, including attorneys' fees, be assessed against Claimant; and that this matter be expunged from Central Registration Depository ("CRD") records for Maller.

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

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

On January 25, 2021, Respondent filed notice that the parties had settled the claims in this matter and requested that an expungement hearing be scheduled.

On January 27, 2021, Claimant filed notice of the parties' settlement and requested dismissal of the Statement of Claim with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On February 9, 2021, Claimant filed correspondence opposing Respondent's expungement request on behalf of Maller.

The Panel conducted a recorded hearing by videoconference on March 18, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Maller.

Claimant's counsel participated in the expungement hearing, on Claimant's behalf, and opposed the request for expungement.

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's request for expungement of the above-captioned arbitration (Occurrence Number 2045142) from Maller's registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

## FEES

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

### Filing Fees

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

Initial Claim Filing Fee	=\$ 1,575.00
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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(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

### 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
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Respondent submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	=\$ 200.00
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The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees to Respondent.

### Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one (1) Arbitrator @ \$200.00	=\$ 200.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$	200.00
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The Panel has assessed \$100.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$100.00 of the contested motion for issuance of subpoena 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 Pre-Hearing Conference: June 18, 2020	1 session	= \$	450.00
One (1) pre-hearing session with the Panel @ \$1,125.00/session Pre-Hearing Conference: December 16, 2019	1 session	= \$	1,125.00
One (1) hearing session on expungement request @ \$1,125.00/session Hearing: March 18, 2021	1 session	= \$	1,125.00
<hr/> Total Hearing Session Fees		= \$	2,700.00

The Panel has assessed \$787.50 of the hearing session fees to Claimant.

The Panel has assessed \$1,912.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Shelley Simons Korch	-	Public Arbitrator, Presiding Chairperson
John N. Greer	-	Public Arbitrator
Elizabeth Varner	-	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**

***Shelley Simons Korch***

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Shelley Simons Korch  
Public Arbitrator, Presiding Chairperson

**03/26/2021**

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

***John N. Greer***

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John N. Greer  
Public Arbitrator

**03/26/2021**

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

***Elizabeth Varner***

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Elizabeth Varner  
Public Arbitrator

**03/26/2021**

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

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March 26, 2021

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