

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

---

In the Matter of the Arbitration Between:

Claimant  
Angela P. Evans

Case Number: 19-03552

vs.

Respondents  
PeachCap Securities, Inc.,  
David Harrison Miller, and  
Shelley Long Eddy

Hearing Site: Jacksonville, Florida

and

Third-Party Claimant  
PeachCap Securities, Inc.

vs.

Third-Party Respondent  
Henry Martin Klausman

and

Third-Party Counter/Cross-Claimant  
Henry Martin Klausman

vs.

Third-Party Counter/Cross-Respondents  
PeachCap Securities, Inc.,  
David Harrison Miller, and  
Shelley Long Eddy

---

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 and Associated Persons  
Member vs. Associated Person  
Associated Person vs. Member and Associated Persons

This matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

## **REPRESENTATION OF PARTIES**

Claimant Angela P. Evans (“Claimant”) appeared pro se.

For Respondents Peachcap Securities, Inc. (“PeachCap”), David Harrison Miller (“Miller”), and Shelley Long Eddy (“Eddy”), hereinafter, collectively referred to as “Respondents”: Craig R. Glasser, Esq. and Gregg J. Breitbart, Esq., Kaufman Dolowich & Voluck, LLP, Fort Lauderdale, Florida.

For Third-Party Respondent Henry Martin Klausman (“Klausman”): Stephen D. Councill, Esq., Councill & Gunnemann LLC, Atlanta, Georgia, until April 5, 2021. Thereafter, Klausman appeared pro se.

## **CASE INFORMATION**

Statement of Claim filed on or about: December 2, 2019.

Response to Respondents’ Statement of Answer filed on or about: March 2, 2020.

Claimant signed the Submission Agreement: November 15, 2019.

Respondents’ Statement of Answer and PeachCap’s Third-Party Claim filed on or about: January 21, 2020.

Respondents’ Statement of Answer to Counterclaim and Crossclaim filed on or about: May 19, 2020.

PeachCap signed the Submission Agreement: January 21, 2020.

Miller signed the Submission Agreement: April 8, 2021.

Eddy signed the Submission Agreement: April 9, 2021.

Klausman’s Statement of Answer to Third-Party Claim, Counterclaim, and Cross-Claim filed on or about: April 27, 2020.

Statement of Clarification filed on or about: April 30, 2020.

Klausman signed the Submission Agreement: February 25, 2020.

## **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty, negligence, unauthorized trading, material misrepresentation and omissions, unsuitable investments, and failure to diversify. The causes of action related to Claimant’s allegation that, without her approval or notice to her, her diversified portfolio of mutual funds was sold and replaced with individual, large cap US stocks and exchange traded funds that lacked diversification, such as stock in Home Depot, Lowes, JP Morgan, and Bank of America.

Unless specifically admitted in Respondents’ Statement of Answer and PeachCap’s Third-Party Claim, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. PeachCap also asserted the following cause of action: indemnification. The cause of action related to PeachCap’s allegation that, pursuant to a Registered Representative Agreement (“Agreement”), Klausman is liable for all costs and expenses incurred in investigating and defending this arbitration, as well as any amount that may be awarded to Claimant or paid as part of a negotiated resolution.

In the Response to Respondents' Statement of Answer, Claimant refuted statements in Respondents' Statement of Answer.

Unless specifically admitted in Klausman's Statement of Answer to Third-Party Claim, Counterclaim, and Cross-Claim, Klausman denied the allegations made in PeachCap's Third-Party Claim and asserted various affirmative defenses. Klausman also asserted that Respondents defamed him by improperly reporting in registration records maintained by the CRD that he was responsible for disputes with Claimants and other customers of Respondents and that indemnification was waived and barred by a release granted by Respondents.

In Respondents' Statement of Answer to Counterclaim and Cross-Claim, Respondents denied the allegations made in the Counterclaim and Cross-Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested damages in the amount of \$27,936.14, consisting of investment management fees of \$20,118.27, platform fees of \$775.00, commissions/ticket charges of \$3,430.50, net short-term losses of \$1,669.41, loss in total account value of \$1,339.96, and arbitration filing fees of \$600.00.

In Respondents' Statement of Answer and PeachCap's Third-Party Claim, Respondents requested dismissal of the Statement of Claim in its entirety; expungement of all references to this matter from registration records maintained by the Central Registration Depository ("CRD") for Miller and Eddy; an award against Klausman for all amounts due pursuant to the Agreement providing for indemnification, including without limitation, reasonable attorneys' fees, expert witness fees, and any award issued by the Arbitrator in favor of Claimant (or paid to Claimant as part of a negotiated resolution); pre- and post-award interest in an amount to be determined by the Arbitrator; costs and expense of this proceeding, including all FINRA forum and processing fees; and such other and further relief as the Arbitrator deems just and proper.

In the Response to Respondents' Statement of Answer, Claimant requested expungement on behalf of Klausman, that Miller and Eddy be named as responsible parties, reasserted her request for damages in the Statement of Claim, and requested an additional \$72.00 in costs.

In Klausman's Statement of Answer to Third-Party Claim, Counterclaim, and Cross-Claim, Klausman requested that the Arbitrator dismiss the Third-Party Claim in its entirety, award expungement of the false customer dispute information filed by Respondents, and enter an award in Claimant's favor against Respondents in the amount of up to \$50,000.00 against each of Respondents for the following: damages due to defamation, plus interest and punitive damages; costs and attorneys' fees; and all such other relief as provided by law.

In the Statement of Clarification, Klausman limited his relief request to no more than \$50,000.00 in monetary damages from Respondents, collectively.

In Respondents' Statement of Answer to Counterclaim and Cross-Claim, Respondents requested that the Arbitrator enter an award dismissing the Counterclaim and Crossclaim in their entirety.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On March 22, 2021, Klausman submitted Claimant's, Respondents', and Klausman's Joint Notice of Voluntary Dismissal with Prejudice. The parties requested that the matter remain open for Miller, Eddy, and Klausman to pursue expungement. Accordingly, the Arbitrator made no determination with respect to any claim, third-party claim, counterclaim, or cross-claim except for expungement.

On April 7, 2021, Miller and Eddy filed a Motion for Expungement, to which no response was filed.

On April 20, 2021, Klausman filed a Motion for Expungement, in which he solely requested expungement of this matter. On May 17, 2021, Claimant submitted a statement in support of Klausman's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on May 20, 2021, so the parties could present oral argument and evidence on Klausman's request for expungement.

Respondents, through counsel, participated in the expungement hearing.

Claimant also participated in the expungement hearing, and supported Klausman's request for expungement.

The Arbitrator conducted a second recorded, telephonic hearing on June 2, 2021, so the parties could present oral argument and evidence on Miller and Eddy's request for expungement.

Klausman did not participate in the expungement hearing for Miller and Eddy.

Claimant also did not participate in the expungement hearing for Miller and Eddy.

The Arbitrator reviewed Miller's, Eddy's, and Klausman's BrokerCheck® Reports. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlement not opposing the request for expungement. The Arbitrator also noted that Miller and Eddy did not contribute to the settlement amount and the settlement involving Klausman did not include a settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: testimony of Claimant, Miller, Eddy, and Klausman; Miller's, Eddy's, and Klausman's BrokerCheck® Reports; settlement documentation; Declaration of Klausman, dated April 20, 2021, correspondence between Klausman and MM on various dates, correspondence from Claimant to PeachCap on various dates, Client Profile and Advisory Agreement, IRA Application, Brokerage Account Application, request for customer verification, and account statements.

## **AWARD**

After considering the pleadings, the Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2058614) from registration records maintained by the CRD for Respondent David Harrison Miller (CRD Number 4648882) with the understanding that, pursuant to Notice to Members 04-16, Respondent David Harrison Miller must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2058536) from registration records maintained by the CRD for Respondent Shelley Long Eddy (CRD Number 4862159) with the understanding that, pursuant to Notice to Members 04-16, Respondent Shelley Long Eddy must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

And, the Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2058452) from registration records maintained by the CRD for Third-Party Respondent Henry Martin Klausman (CRD Number 271217) with the understanding that, pursuant to Notice to Members 04-16, Third-Party Respondent Henry Martin Klausman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous;

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

Claimant was Klausman's customer. In the fall of 2015, Klausman was contemplating retirement and entered into an arrangement whereby he would transfer his book of business to PeachCap. Klausman and his longtime associate, MM, provided Claimant with the forms needed to open PeachCap accounts and sent correspondence introducing her to the new firm. However, Klausman could not effect trades on Claimant's accounts at PeachCap and had no involvement with the accounts from a trading perspective.

Further, according to Claimant’s testimony, she did not have any communication with Klausman regarding investments or her accounts while she was a PeachCap customer. Klausman resigned from PeachCap in July 2016. The trades to which Claimant objected were all executed after that date. MM continued to service the accounts.

Miller’s only contact with Claimant’s accounts was when he approved the Investment Advisory Agreement that Claimant signed. Miller had no communication with Claimant nor other involvement with her accounts, other than being shown as a principal on trade blotters for the firm.

Eddy was erroneously listed on trade confirmations and statements as the registered representative for Claimant, but she also could not effect trades for Claimant and, in fact, was on leave for most of the time Claimant was a PeachCap customer. As soon as Eddy discovered the error, she had the error corrected. Eddy only spoke to Claimant on one occasion, when Claimant told MM that she wanted to close her PeachCap accounts and MM arranged for Claimant to speak with Eddy.

2. FINRA Dispute Resolution Services shall retain the \$150.00 non-refundable portion of the filing fee that Claimant deposited previously.
3. FINRA Dispute Resolution Services shall retain the \$1,000.00 non-refundable portion of the filing fee that PeachCap deposited previously.
4. FINRA Dispute Resolution Services shall retain the \$150.00 non-refundable portion of the filing fee that Klausman deposited previously.

**FEES**

Pursuant to the Code:

PeachCap has paid to FINRA Dispute Resolution Services the \$750.00 Member Surcharge and \$1,750.00 Member Process Fee previously invoiced.

Two (2) hearing sessions on expungement requests @ \$450.00/session	=\$	900.00
Hearings:                      May 20, 2021		1 session
June 2, 2021		1 session
<hr/>		
Total Hearing Session Fees	=\$	900.00

The Arbitrator has assessed \$450.00 of the hearing session fees, jointly and severally, to Miller and Eddy.

The Arbitrator has assessed \$450.00 of the hearing session fees to Klausman.

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

**ARBITRATOR**

Langfred W. White

-

Sole 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.

**Arbitrator's Signature**

***Langfred W. White***

Langfred W. White  
Sole Public Arbitrator

**07/21/2021**

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.

July 21, 2021

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