

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Accurate Building Co. LLC

Case Number: 19-03743

vs.

Respondent
Four Points Capital Partners LLC

Hearing Site: Columbia, South Carolina

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.

REPRESENTATION OF PARTIES

For Claimant Accurate Building Co. LLC (“Claimant”): Kristian P. Kraszewski, Esq., Kyros Law Offices, Coral Gables, Florida.

For Respondent Four Points Capital Partners LLC (“Respondent”): Michael P. Gilmore, Esq., Moss & Gilmore, LLP, Mineola, New York.

*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: December 19, 2019.
Claimant signed the Submission Agreement: December 19, 2019.

Statement of Answer filed on or about: February 11, 2020.
Respondent signed the Submission Agreement: February 10, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligence and negligent supervision. The causes of action relate to Northern Dynasty stock.

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 in the amount of \$200,000.00, which includes interest, costs, attorneys' fees, and punitive damages.

In the Statement of Answer, Respondent requested:

1. The claim and separate causes of action be dismissed in their entirety;
2. Respondent be awarded its costs;
3. All forum and other fees be assessed against Claimant; and
4. Such other and further relief as the Panel deems appropriate.

Respondent filed a request for expungement on behalf of Unnamed Party Michael Martino 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.

On June 16, 2020, Respondent filed a request on behalf of Unnamed Party, Michael Martino ("Martino"), requesting expungement of Occurrence Number 2061082 from Unnamed Party Martino's CRD records. Claimant did not file a response.

On August 22, 2020, Claimant filed a notice of voluntary dismissal with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

The Panel conducted a recorded, telephonic hearing on April 6, 2021, so the parties could present oral argument and evidence on Unnamed Party Martino's request for expungement.

Claimant did not participate in the expungement hearing.

The Panel reviewed Unnamed Party Martino's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 2061082, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Unnamed Party Martino did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: pleadings, Unnamed Party Martino's BrokerCheck® Report, Respondent's exhibits, and testimony provided by Unnamed Party Martino at the expungement hearing.

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:

The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2061082) from registration records maintained by the CRD for Unnamed Party Michael Christopher Martino (CRD Number 2579146) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Michael Christopher Martino 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 of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 finding based on the following reasons:

The matter settled without a hearing. The only evidence of the allegations is the Statement of Claim, which reads, "Claimant sustained losses in speculative stocks while the global markets enjoyed record returns...Claimant was repeatedly sold Northern Dynasty stock...Respondent doubled down on this stock to Claimant's detriment."

Claimant then asserted that these actions constituted negligence, failure to supervise, and violations of the conduct rules of FINRA. In fact, Unnamed Party Martino took over this account from a previous advisor in June 2017. The Customer's new account application, which was signed on May 19, 2016, stated the investment profile was "Speculative". The account welcome letter dated May 13, 2016 stated, "As per our conversation, we will be executing a strategy designed around short term trading...Please note that the risks involved in short term trading include...significant principal losses, increased commission costs, higher asset turnover, and tax consequences." The speculative nature of the investment strategy was confirmed with the account holder, in writing, approximately bi-monthly until the account closed. The allegation that Unnamed Party Martino was negligent, failed to supervise, or violated the FINRA conduct rules is false when he executed the strategy as requested and the investment strategy was consistently confirmed by the Customer.

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 = \$ 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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,700.00
Member Process Fee = \$ 3,250.00

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: April 20, 2020	1 session	
January 6, 2021	1 session	
Two (2) hearing sessions on expungement request @ \$1,125.00/session	= \$	2,250.00
Hearings: April 6, 2021	2 sessions	
<hr/>		
Total Hearing Session Fees	= \$	4,500.00

The Panel has assessed \$562.50 of the hearing session fees to Claimant.

The Panel has assessed \$3,937.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Denise Morris Hammond	-	Public Arbitrator, Presiding Chairperson
Robert H. Putnam, Jr.	-	Public Arbitrator
Patricia Ann Tracey	-	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

Denise Morris Hammond

Denise Morris Hammond
Public Arbitrator, Presiding Chairperson

05/25/2021

Signature Date

Robert H. Putnam, Jr.

Robert H. Putnam, Jr.
Public Arbitrator

05/20/2021

Signature Date

Patricia Ann Tracey

Patricia Ann Tracey
Public Arbitrator

05/25/2021

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.

May 25, 2021

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