

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Barbara Giffuni

Case Number: 20-00472

vs.

Respondent
David Bruce Korostoff

Hearing Site: New York, New York

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. Associated Person

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Barbara Giffuni: Phillip Gerschel, Esq., Law Office of Philippe Gerschel LLC, New York, New York.

For Respondent David Bruce Korostoff: Frank J. Cuccio, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: February 8, 2020.
Barbara Giffuni signed the Submission Agreement: February 8, 2020.

Statement of Answer filed by Respondent on or about: July 21, 2020.
David Bruce Korostoff signed the Submission Agreement: July 30, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: unauthorized trading and inappropriate investments. The causes of action relate to unspecified securities.

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 the amount of \$102,185.00.

In the Statement of Answer, Respondent requested that the Panel dismiss Claimant's claims, expungement of this matter from his CRD records, attorneys' fees, and for such other relief and further relief as deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 5, 2021, Claimant withdrew her claims with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On April 22, 2021, Respondent filed a Motion for Expungement of Occurrence Numbers 2077771 and 1981190, to which no response was filed.

The Panel conducted a recorded hearing by videoconference on June 14, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement.

Claimant and counsel did not participate in the expungement hearing and did not oppose the request for expungement.

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

The Panel also reviewed the settlement documentation related to Occurrence Number 2077771, 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 expungement request and that although Respondent contributed to the settlement amount, expungement is still justified as the contribution was minimal and stated as nuisance value

In recommending expungement, the Panel relied upon the following documentary or other evidence: pleadings, exhibits, Respondent's testimony, Respondent's BrokerCheck® Report, and the settlement agreement related to Occurrence Number 2077771.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number 1981190 and the above-captioned arbitration (Occurrence Number 2077771) from registration records maintained by the CRD for Respondent David Bruce Korostoff (CRD Number 1205712) with the understanding that, pursuant to Notice to Members 04-16, Respondent David Bruce Korostoff 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

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

Claimant's allegations were not supported by the evidence. Claimant inherited this account and did not participate in its decision making. She would have no knowledge of any unauthorized trading. Her allegations of unsuitable trading were not supported by the evidence.

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	=\$ 1,425.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as Respondent’s former firm, The GMS Group, LLC 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: September 10, 2020	1 session	
November 16, 2020	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: June 14, 2021	1 session	
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Total Hearing Session Fees	= \$	3,375.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,250.00 of the hearing session fees to Respondent, which includes the fees for the June 14, 2021 expungement hearing.

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

ARBITRATION PANEL

Howard Alan Grinsberg	-	Public Arbitrator, Presiding Chairperson
Fred S. Pieroni	-	Public Arbitrator
Catherine Ladnier	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Howard Alan Grinsberg

Howard Alan Grinsberg
Public Arbitrator, Presiding Chairperson

06/24/2021

Signature Date

Fred S. Pieroni

Fred S. Pieroni
Public Arbitrator

06/25/2021

Signature Date

Catherine Ladnier

Catherine Ladnier
Non-Public Arbitrator

06/24/2021

Signature Date

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June 25, 2021

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