

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

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In the Matter of the Arbitration Between:

Claimants

Karla Kretsch  
The Donald & Karla Kretsch Family Trust

Case Number: 20-01879

vs.

Respondents

GVC Capital LLC  
Guy James Newman

Hearing Site: Phoenix, Arizona

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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: Customers vs. Member and Associated Person

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Karla Kretsch (“Karla Kretsch”) and The Donald & Karla Kretsch Family Trust (“Trust”): Jon A. Titus, Esq., Titus Brueckner & Levine PLC, Scottsdale, Arizona.

Hereinafter, Karla Kretsch and Trust are collectively referred to as “Claimants”.

For Respondent GVC Capital LLC (“GVC Capital”): Tim Beyer, Esq., Bryan Cave Leighton Paisner LLP, Denver, Colorado.

Respondent Guy James Newman (“Newman”) appeared pro se.

Hereinafter, GVC Capital and Newman are collectively referred to as “Respondents”.

**CASE INFORMATION**

Statement of Claim filed on or about: June 12, 2020.

Claimants signed the Submission Agreement: May 28, 2020.

Statement of Answer and Crossclaim filed by GVC Capital on or about: August 4, 2020.

Statement of Answer filed by Newman on or about: August 5, 2020.

GVC Capital signed the Submission Agreement: August 4, 2020.  
Newman did not sign the Submission Agreement.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: Arizona securities fraud - misrepresentations and omissions; negligence; breach of fiduciary duty; breach of trust and breach of agency; negligent supervision; control person liability; constructive fraud; and negligent misrepresentation. The causes of action relate to Creative Learning Corporation, KBC Bricks, Vanguard Energy Corporation, Spectrum Resources Corporation, Rockdale Investment and General Cannabis Corporation.

In the Statement of Answer, GVC Capital denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Crossclaim, GVC Capital asserted indemnification against Newman as the sole cause of action. The cause of action relates to GVC Capital's assertion that Newman is solely liable and responsible for all of Claimants' claims.

In his Statement of Answer, Newman denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested:

1. Actual damages in the amount of no less than \$430,000.00;
2. Disgorgement of all commissions paid to Respondents and securities issue to Respondents;
3. Opportunity costs on the funds unsuitably invested in the amount of \$711,214.00 in addition to the \$430,200.00 pled above;
4. Attorneys' fees;
5. Costs and other expenses incurred and accruing herein pursuant to the statutory claims alleged herein; and
6. For such other relief as the panel may deem appropriate.

In the Statement of Answer and Crossclaim, GVC Capital requested:

1. Denial of Claimants' claims;
2. Dismissal of GVC Capital as a Respondent herein, with prejudice; and
3. Newman be held solely liable and responsible for all of Claimants' grievances and claims.

In the Statement of Answer, Newman requested:

1. The Panel dismiss or deny the Statement of Claim in its entirety;
2. Attorneys' fees;
3. Costs and expenses;
4. An order directing the expungement of this matter from his Central Registration Depository ("CRD") records.

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

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

Newman did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and, having answered the claim, appeared, and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On August 12, 2020, GVC Capital filed a notice stating that it was withdrawing without prejudice the Cross Claim against Newman.

On September 25, 2020, GVC Capital filed a Motion to Dismiss pursuant to Rules 12206 and 12504(a)(6)(B) of the Code. On October 29, 2020, Claimants filed a response opposing the Motion to Dismiss. On November 4, 2020, GVC Capital filed its reply in support of the Motion to Dismiss. On November 9, 2020, the Panel heard oral arguments on the Motion to Dismiss. That same day, the Panel issued an Order denying the Motion to Dismiss.

On October 13, 2021, Claimant filed a notice of settlement with GVC Capital. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim against GVC Capital.

On October 15, 2020, Newman filed a Motion to Dismiss pursuant to Rule 12206 of the Code. On November 16, 2020, Claimants filed a response opposing Newman’s Motion to Dismiss. On November 25, 2020, Newman filed his reply. On November 30, 2020, the Panel heard oral arguments on Newman’s Motion to Dismiss. That same day, the Panel issued an Order denying Newman’s Motion to Dismiss.

### **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. Newman is liable for and shall pay to Claimants the sum of \$67,572.00 in compensatory damages.
2. The Panel did not make a determination with respect to Newman’s expungement request.
3. Any and all claims for relief not specifically addressed herein, including any requests for attorneys’ fees, are denied.

### **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	= \$ 2,000.00
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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	= \$	3,025.00
Member Process Fee	= \$	6,175.00

**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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Claimant 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 the total discovery-related motion fees to GVC Capital.

**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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: January 25, 2021	1 session	
Five (5) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	7,000.00
Pre-Hearing Conferences: September 29, 2020	1 session	
November 9, 2020	1 session	
November 30, 2020	1 session	
April 15, 2021	1 session	
October 13, 2021	1 session	
Four (4) hearing sessions @ \$1,400.00/session	= \$	5,600.00
Hearings: November 2, 2021	2 sessions	
November 3, 2021	2 sessions	

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Total Hearing Session Fees	= \$	13,050.00
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The Panel has assessed \$3,025.00 of the hearing session fees to GVC Capital.

The Panel has assessed \$8,625.00 of the hearing session fees to Newman.

The Panel has waived the \$1,400.00 of the hearing session fees.

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

**ARBITRATION PANEL**

Howard R. Gaines	-	Public Arbitrator, Presiding Chairperson
Carrie Lynette Thompson Jones	-	Public Arbitrator
Steven M. Guttell	-	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**

***Howard R. Gaines***

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Howard R. Gaines  
Public Arbitrator, Presiding Chairperson

***11/05/2021***

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

***Carrie Lynette Thompson Jones***

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Carrie Lynette Thompson Jones  
Public Arbitrator

***11/05/2021***

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

***Steven M. Guttell***

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Steven M. Guttell  
Non-Public Arbitrator

***11/05/2021***

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

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November 08, 2021

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