

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

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In the Matter of the Arbitration Between:

Claimants  
Stephen Trowbridge  
Kristi Trowbridge

Case Number: 20-01899

vs.

Respondent  
Kestra Investment Services, LLC

Hearing Site: Birmingham, Alabama

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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: Associated Persons vs. Member

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Stephen Trowbridge (“Stephen Trowbridge”) and Kristi Trowbridge (“Kristi Trowbridge”): Ross E. Webster, Esq., Glankler Brown, PLLC, Memphis, Tennessee.

Hereinafter, Stephen Trowbridge and Kristi Trowbridge are collectively referred to as “Claimants”.

For Respondent Kestra Investment Services, LLC: Richard D’Amura, Esq. and Lydia R. Zaidman, Esq., D’Amura & Zaidman, PLLC, Austin, Texas.

**CASE INFORMATION**

Statement of Claim filed on or about: June 10, 2020.  
Claimants signed the Submission Agreement: June 9, 2020.

Statement of Answer filed by Respondent on or about: August 20, 2020.  
Respondent signed the Submission Agreement: August 20, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: a claim alleging that the Form U5 filed by Respondent, as part of the registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature, and negligence.

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, Claimants requested:

1. All damages attributable to Respondent's actions, including damage to their reputation, loss of production, loss of profits, loss of up-front money and higher payouts from other firms that would not hire them;
2. Costs of being replaced on heightened supervision;
3. Reimbursement of errors and omission insurance paid two weeks before the termination;
4. All other compensatory damages and punitive damages, costs and attorneys' fees available to them by law in an amount not to exceed \$950,000.00; and
5. All other relief, both general or specific, which Claimants may show themselves entitled and which the Panel may deem proper.

In the Statement of Answer, Respondent requested:

1. All claims brought against it in this arbitration proceeding be dismissed with prejudice in their entirety;
2. All associated costs and fees assessed against Claimants; and
3. Any further relief deemed just, proper, and equitable.

At the hearing, Claimants requested:

1. \$750,000.00 in compensatory damages;
2. \$40,000.00 in expenses; and
3. \$279,876.00 in attorneys' fees.

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

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

During the evidentiary hearing, at the conclusion of Claimants' case-in-chief, Respondent made a Motion to Dismiss all of Claimants' causes of action for lack of evidence. Claimants opposed the motion. The Panel waited to rule on the motion until the conclusion of the case. The motion is now moot because of the final disposition of the case.

On February 9, 2022, Claimants filed their post hearing submission detailing their position on attorneys' fees and expenses, and the claim for negligence. On that same day, Respondent filed an "Emergency Motion to Strike Claimants' Post-Hearing Submission". The Panel hereby denies Respondent's motion.

### **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. Claimants' claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and 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	= \$	1,725.00
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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	= \$	2,475.00
Member Process Fee	= \$	5,075.00

#### **Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

September 10, 2021, postponement requested by parties	= \$	1,300.00
December 27-29, 2021, postponement requested by Respondent	= \$	1,300.00

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Total Postponement Fees	= \$	2,600.00
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The Panel has assessed the total postponement fees to Respondent.

#### **Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

September 10, 2021, cancellation requested by parties	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00
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The Panel has assessed the total last-minute cancellation 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.

Four (4) decisions on contested motions for the issuance of a subpoena with one Arbitrator @ \$200.00	= \$	800.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$	800.00
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The Panel has assessed the total 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$	1,350.00
Pre-Hearing Conferences: July 26, 2021	1 session	
January 5, 2022	1 session	
January 25, 2022	1 session	

Five (5) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$	6,500.00
Pre-Hearing Conferences: October 13, 2020	1 session	
August 16, 2021	1 session	
October 12, 2021	1 session	
November 3, 2021	1 session	
December 20, 2021	1 session	

Sixteen (16) hearing sessions @ \$1,300.00/session	= \$	20,800.00
Hearings: September 7, 2021	3 sessions	
September 8, 2021	3 sessions	
September 9, 2021	2 sessions	
January 31, 2022	2 sessions	
February 1, 2022	2 sessions	
February 2, 2022	2 sessions	
February 3, 2022	2 sessions	

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Total Hearing Session Fees	= \$	28,650.00
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The Panel has assessed the total hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Bill Lamoreaux	-	Public Arbitrator, Presiding Chairperson
Charles Lange Clark	-	Public Arbitrator
Victor L. Hayslip	-	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**

***Bill Lamoreaux***

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Bill Lamoreaux  
Public Arbitrator, Presiding Chairperson

***02/15/2022***

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

***Charles Lange Clark***

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Charles Lange Clark  
Public Arbitrator

***02/15/2022***

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

***Victor L. Hayslip***

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Victor L. Hayslip  
Non-Public Arbitrator

***02/15/2022***

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

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February 15, 2022

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