

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Linda Stout Willson

Case Number: 20-02276

vs.

Respondents
Peachcap Securities, Inc., David Harrison
Miller, Eric Steven Burnette, and Shelley
Long Eddy

Hearing Site: Atlanta, Georgia

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

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

REPRESENTATION OF PARTIES

Claimant Linda Stout Willson (“Claimant”) appeared pro se.

For Respondents Peachcap Securities, Inc. (“Peachcap”), David Harrison Miller (“Miller”), Eric Steven Burnette (“Burnette”), and Shelley Long Eddy (“Eddy”) (collectively “Respondents”): Craig Glasser, Esq. and Gregg J. Breitbart, Esq., Kaufman Dolowich & Voluck LLP, Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 20, 2020.

Response to Statement of Answer filed on or about: December 4, 2020.

Claimant signed the Submission Agreement: July 7, 2020.

Statement of Answer filed by Respondents on or about: September 11, 2020.

Peachcap, Burnette, and Miller signed the Submission Agreement: September 9, 2020.

Eddy signed the Submission Agreement: September 14, 2020.

CASE SUMMARY

In the Statement Claim, Claimant asserted the following causes of action: breach of fiduciary duty; suitability; negligence; and misrepresentations and omissions. The causes of action relate to Claimant’s allegation that Respondents mismanaged her investment accounts, including

recommending an illegal and unsuitable investment in ProShares Ultra VIX Short Term Futures (UVXY).

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Response to Statement of Answer, Claimant refuted the assertions made in the Statement of Answer.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested reimbursement of unearned management fees in the amount of \$30,629.67; reimbursement of trading costs, ticket charges, and commissions in the amount of \$606.32; reimbursement of platform fees in the amount of \$2,329.00, and filing fees in the amount of \$600.00.

In the Statement of Answer, Respondents requested that the Arbitrator enter an award dismissing the Statement of Claim in its entirety and expungement of all references to this matter from Miller's and Eddy's Central Registration Depository ("CRD") records.

In the Response to the Statement of Answer, Claimants reasserted the relief requested in the Statement of Claim.

Respondents also filed a request for expungement of all references to this matter from Burnette's 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 Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On October 5, 2020, Claimant filed a letter to FINRA, requesting expungement on behalf of Unnamed Party Henry M. Klausman ("Klausman"). On November 16, 2020, Claimant withdrew her request for expungement on behalf of Klausman.

On December 4, 2020, Respondents filed a Pre-Hearing Brief, requesting expungement of all references to this matter from Eddy's, Miller's, and Burnette's CRD records.

On December 10, 2020, FINRA Dispute Resolution Services advised the parties that the Arbitrator had requested an expungement hearing and that the Arbitrator's determination on the merits of Claimant's claims and Respondents' expungement request would be provided in the Arbitrator's final award.

On January 11, 2021, Claimant filed an opposition to Respondents' request for expungement. On January 12, 2021, Respondents filed a submission in support of their expungement request.

The Arbitrator conducted a recorded, telephonic hearing on January 15, 2021, so the parties could present oral argument and evidence on Eddy, Miller, and Burnette's request for expungement.

Claimant participated in the expungement hearing and opposed the request for expungement.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: BrokerCheck® Reports for Eddy, Miller, and Burnette; Claimant's and Respondents' written statements related to Respondents' expungement request and exhibits thereto; and the testimonies of Eddy, Miller, and Burnette.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Numbers 2085750, 2085751, and 2103553) from registration records maintained by the CRD for Respondents Shelley Long Eddy (CRD Number 4862159), David Harrison Miller (CRD Number 4648882), and Eric Steven Burnette (CRD Number 5747786) with the understanding that, pursuant to Notice to Members 04-16, Respondents Shelley Long Eddy, David Harrison Miller, and Eric Steven Burnette 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 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:

Eddy, Miller, and Burnette were not the representatives of record for Claimant's account; however, Eddy did make a recommendation to Claimant. Claimant did not accept or act upon Eddy's recommendation, so there were no trades. There was some miscommunication about responsibilities between the parties, but there was no violation of any sales practice or failure to supervise. Furthermore, Claimant did not prove her allegation of an illegal or unsuitable recommendation.

3. FINRA Dispute Resolution Services shall retain the \$600.00 filing fee that Claimant deposited previously.
4. Respondents are jointly and severally liable for and shall pay to Claimant \$300.00 to reimburse Claimant for one half of the filing fee previously paid to FINRA Dispute Resolution Services.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and 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	=\$	600.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, Peachcap is assessed the following:

Member Surcharge	=\$	750.00
Member Process Fee	=\$	1,750.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) hearing session on expungement request @ \$450.00/session	=\$	450.00
Hearing Date: January 15, 2021		1 session

Total Hearing Session Fees	=\$	450.00
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The Arbitrator has assessed the total hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

John F. Allgood

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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

John F. Allgood

John F. Allgood
Sole Public Arbitrator

01/21/2021

Signature Date

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January 21, 2021

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