

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

---

In the Matter of the Arbitration Between:

Claimant  
Suzanne R. Spaner

Case Number: 20-02338

vs.

Respondent  
J.P. Morgan Securities LLC

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Suzanne R. Spaner (“Claimant”): Bradford M. Gucciardo, Esq., Gucciardo Law Group, P.A., Lakewood Ranch, Florida.\*

For Respondent J.P. Morgan Securities LLC (“Respondent”): Michael A. Gross, Esq., Ulmer & Berne LLP, Boca Raton, Florida.

\*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: July 24, 2020.  
Claimant signed the Submission Agreement: July 23, 2020.

Statement of Answer filed on or about: September 14, 2020.  
Respondent signed the Submission Agreement: September 8, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: negligence (gross negligence), breach of fiduciary duty, breach of contract, and violation of the Georgia Uniform Securities Act of 2008. The causes of action related to Claimant's allegation that Respondent and its employees engaged in negligent conduct, including failure to follow her specific instructions concerning sales and purchases, in connection with their handling of her Individual Retirement Accounts.

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 of at least \$86,000.00; punitive damages of at least \$172,000.00; pre-judgment interest and post-judgment interest; all costs and fees incurred in this action including attorneys' fees, forum fees, expert witness fees, and any additional costs and fees incurred; and such further relief as the Panel deems just and proper.

In the Statement of Answer, Respondent requested that all claims asserted against it be dismissed with prejudice and an award be rendered in its favor, all FINRA fees be assessed to Claimant, and that Respondent be awarded any other relief that the Panel deems just and proper.

Respondent filed a request for expungement, on behalf of Unnamed Party Jay M. Rottner ("Rottner"), 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 4, 2021, Claimant filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On June 22, 2021, Respondent filed a Motion for Expungement on behalf of Rottner. On July 27, 2021, Claimant filed correspondence advising that she did not oppose the request for expungement.

The Panel conducted a recorded hearing by videoconference on October 6, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Rottner.

Neither Claimant nor Claimant's counsel participated in the expungement hearing.

The Panel reviewed Rottner'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, 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 Rottner did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Rottner's testimony and Rottner's Exhibits.

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

### **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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2083169) from registration records maintained by the CRD for Unnamed Party Jay M. Rottner (CRD Number 2327727) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Jay M. Rottner 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 Panel finds inconsistencies in Claimant's allegations about her instructions to Rottner in the Statement of Claim and in her correspondence to him, specifically, whether the alleged orders were based on future changes in her portfolio value or in the level of the entire market.

2. 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	=\$ 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(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	=\$ 1,900.00
Member Process Fee	=\$ 3,750.00

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

One (1) pre-hearing session with the Panel @ \$1,125.00/session	=\$ 1,125.00
Pre-Hearing Conference: November 10, 2020                      1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	=\$ 1,125.00
Hearing:    October 6, 2021                      1 session	
<hr/> Total Hearing Session Fees	<hr/> =\$ 2,250.00

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

The Panel has assessed \$1,687.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Robert H. Putnam, Jr.	-	Public Arbitrator, Presiding Chairperson
Gary J. Leshaw	-	Public Arbitrator
Arthur Cullen Hammond	-	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**

***Robert H. Putnam, Jr.***

\_\_\_\_\_  
Robert H. Putnam, Jr.  
Public Arbitrator, Presiding Chairperson

**10/19/2021**

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

***Gary J. Leshaw***

\_\_\_\_\_  
Gary J. Leshaw  
Public Arbitrator

**10/19/2021**

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

***Arthur Cullen Hammond***

\_\_\_\_\_  
Arthur Cullen Hammond  
Public Arbitrator

**10/19/2021**

\_\_\_\_\_  
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.

October 20, 2021

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