

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Karen Mastics Germain & Marion Mastics Vaughan Trustees FBO Carole A. Mastics Rev Trust dtd 03/28/2011, and Carole A. Mastics individually for the Carole A. Mastics Individual Retirement Account

Case Number: 20-02666

vs.

Respondent

Janney Montgomery Scott LLC

Hearing Site: Boca Raton, Florida

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

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Karen Mastics Germain & Marion Mastics Vaughan Trustees FBO Carole A. Mastics Rev Trust dtd 03/28/2011, and Carole A. Mastics individually for the Carole A. Mastics Individual Retirement Account: Robert J. Harvey, Esq., Jenks & Harvey LLP, West Palm Beach, Florida.

For Respondent Janney Montgomery Scott LLC: Paula D. Shaffner, Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, Pennsylvania.

*FINRA recorded the appearance of Claimants' counsel at the time of filing of the Statement of Claim. Counsel's representation of Claimants may have ended with the parties' settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimants' counsel appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: August 18, 2020.

Karen Mastics Germain & Marion Mastics Vaughan Trustees FBO Carole A. Mastics Rev Trust dtd 03/28/2011 signed the Submission Agreement: August 18, 2020.

Carole A. Mastics signed the Submission Agreement individually for the Carole A. Mastics Individual Retirement Account: August 18, 2020.

Statement of Answer filed by Respondent on or about: November 17, 2020.
Janney Montgomery Scott LLC signed the Submission Agreement: November 17, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: breach of fiduciary duty; breach of contract; failure to supervise; negligence; negligent supervision; negligent misrepresentation; and fraud. The causes of action relate to the purchase of high-yield corporate bonds, preferred securities, Unit Investment Trusts, and alternative investments, in the oil/gas, and real estate sectors in Claimants' 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, Claimants requested: compensatory damages of approximately \$500,000.00, including recovery of what she should have earned in the accounts instead of incurring losses; punitive damages in the amount to be determined from the evidence accumulated during discovery; interest; costs; and such other damages the Panel deemed appropriate.

In the Statement of Answer, Respondent requested: that Claimants' claims be denied in their entirety; an assessment of all costs of this proceeding, including attorneys' fees, against Claimants; and a recommendation of expungement of any and all references to this matter from Central Registration Depository ("CRD") registration records on behalf of Unnamed Parties Michael Edouard Blankenship ("Blankenship") and William G. Davis III ("Davis.")

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 3, 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 September 20, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Parties Blankenship and Davis). On January 28, 2022, Claimant filed a response in opposition to Respondent's request for expungement.

The Panel conducted a recorded, telephonic hearing on January 31, 2022, so the parties could present oral argument and evidence on Respondent's request for expungement. Claimant's counsel participated in the expungement hearing and opposed the request for expungement.

The Panel reviewed Unnamed Parties Blankenship and Davis's respective BrokerCheck® Reports. 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 Unnamed Parties Blankenship and Davis contributed to the settlement amount. Unnamed Parties Blankenship and Davis contributed \$2,000.00 and \$3,000.00, respectively, to a settlement sum. The Settlement Agreement does not reflect Unnamed Parties Blankenship and Davis's contributions. After the Settlement Agreement was signed, Unnamed Parties Blankenship and Davis were required by their employer to contribute to the settlement by paying a deductible fee on Respondent's errors & omissions insurance. Neither Blankenship nor Davis participated in the settlement negotiations and neither of them wanted Respondent to settle.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimants' written statement in opposition to Respondent's expungement request; Claimants' Statement of Claim; Respondent's Statement of Answer; profit and loss reports for Claimants' accounts; If Held Analysis; the Settlement Agreement; Unnamed Parties Blankenship and Davis's respective BrokerCheck® Reports.

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 Numbers 2088124 - Blankenship and 2088126 - Davis) from registration records maintained by the CRD for Unnamed Parties Michael Edouard Blankenship (CRD Number 2215124) and William George Davis III (CRD Number 1057933) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Parties Blankenship and Davis 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:

Claimants' Statement of Claim alleged that Unnamed Parties Davis and Blankenship overly concentrated Claimants' accounts in risky and unsuitable investments including Unit Investment Trusts, high yield bonds, preferred securities and alternative investments in the gas, oil, and real estate sectors. Claimants alleged that such actions by Unnamed Parties Davis and Blankenship resulted in losses of \$500,000.00. The testimony and evidence established that the allegations of Claimants were false. Unnamed Parties Davis and Blankenship actually thoughtfully and conservatively invested Claimants' accounts in high-quality securities which were diverse as to sector and type. The Panel reviewed the summaries of investments and determined that Unnamed Parties Davis and Blankenship suitably invested the accounts in a predominantly fixed income portfolio to fulfill the income needs of the elderly widow, who is the beneficiary of Claimants' Trust. The evidence and testimony further established that the accounts were not concentrated in any sector. Losses in the account are attributable mainly to the impact of the COVID-19 pandemic on the financial markets from March 2020 to June 2020 when the accounts were transferred to another firm.

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 Janney Montgomery Scott LLC 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: December 4, 2020 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: January 31, 2022 1 session

Total Hearing Session Fees = \$ 2,250.00

The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Claimants.

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

Monica I. Salis	-	Public Arbitrator, Presiding Chairperson
Paul Weinberg	-	Public Arbitrator
Edward Alexander Jaffe	-	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

Monica I. Salis

Monica I. Salis
Public Arbitrator, Presiding Chairperson

02/09/2022

Signature Date

Paul Weinberg

Paul Weinberg
Public Arbitrator

02/09/2022

Signature Date

Edward Alexander Jaffe

Edward Alexander Jaffe
Public Arbitrator

02/09/2022

Signature Date

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February 09, 2022

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