

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Vanessa Jones

Case Number: 20-03364

vs.

Respondents
J.P. Morgan Securities, LLC,
Paul M. Fiacable, and
Maurice Oliver Lounds

Hearing Site: Chicago, Illinois

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 case was administered under the Special Proceeding option for simplified cases.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Vanessa Jones (“Claimant”) appeared pro se.

For Respondents J.P. Morgan Securities, LLC (“JPMS”) and Paul M. Fiacable (“Fiacable”): Michael A. Gross, Esq., Ulmer & Berne LLP, Boca Raton, Florida and Shipra K. Rege, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

For Respondent Maurice Oliver Lounds (“Lounds”): Daniel W. Rucker, Esq, Hertz Schram, PC, Bloomfield Hills, Michigan.

JPMS, Fiacable, and Lounds, hereinafter, collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: November 2, 2020.

Claimant signed the Submission Agreement: September 25, 2020.

Statement of Answer filed by JPMS and Fiacable on or about: February 26, 2021.

JPMS and Fiacable signed the Submission Agreements: February 26, 2021.

Statement of Answer filed by Lounds on or about: February 26, 2021.
Lounds signed the Submission Agreement: February 17, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty, misappropriation, misrepresentation, and unauthorized transactions. Claimant alleged that JPMS stole funds from her account and that she never consented to the transactions. Claimant further alleged that JPMS caused her to lose significant gains by converting her funds to bonds without cause.

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

Unless specifically admitted in the Statement of Answer, Lounds adopted the answers and affirmative defenses in the Statement of Answer submitted by JMPS and Fiacable.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested at least \$11,000.00 in damages, attorneys' fees, interest, and all other relief that is allowed and appropriate.

In the Statement of Answer, JPMS and Fiacable requested that all claims asserted against them be dismissed with prejudice and an award be rendered in their favor, all FINRA fees be assessed to Claimant, and they be awarded any other relief that the Arbitrator deems just and proper.

In the Statement of Answer, Lounds requested that all Claimant's claims be dismissed with prejudice and an award rendered in his favor, all FINRA fees be assessed to Claimant, and that he be awarded any other relief that the Arbitrator deems just and proper or supported by the facts disclosed through this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On December 31, 2021, JPMS and Fiacable filed a Motion to Dismiss, to which no response was filed. On January 14, 2022, the Arbitrator ordered Claimant to answer all outstanding discovery, or in the alternative, file a sworn affidavit detailing the efforts to comply and file a response to JPMS and Fiacable's Motion to Dismiss by January 31, 2022. Claimant did not comply with the January 14, 2022, Order.

On February 1, 2022, JPMS and Fiacable filed a Second Motion to Dismiss, which included a request for sanctions, to which no response was filed. On February 15, 2022, JPMS and Fiacable file a Supplement to the Second Motion to Dismiss, to which to response was filed.

On February 3, 2022, Lounds filed a Motion to Dismiss, to which no response was filed.

In an Order dated February 23, 2022, the Arbitrator deferred ruling on the Respondents' separate Motions to Dismiss, which also included Respondents' requests for sanctions, until the final hearing on February 28, 2022.

At the evidentiary hearing, prior to Claimant's case-in-chief, JPMS and Fiacable renewed the Second Motion to Dismiss and Lounds renewed his Motion to Dismiss. These motions were based on Claimant's failure to respond to outstanding Motions to Compel. Claimant did not file written responses to any motions, no evidentiary material, no affidavit and no sworn statement. The Arbitrator denied the Motions to Dismiss, including any requests for sanctions.

At the evidentiary hearing, Lounds orally requested that all references to this matter from his CRD registration records to which Claimant objected.

The Arbitrator reviewed Lounds' BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: every document filed by Respondents and the testimony of all named parties and Claimant's son.

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 Number 2097803) from registration records maintained by the CRD for Respondent Maurice Oliver Lounds (CRD Number 4326767) with the understanding that, pursuant to Notice to Members 04-16, Respondent Maurice Oliver Lounds 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:

The allegations against Lounds were factually impossible or clearly erroneous as he had already left JPMS in September 2016. Furthermore, Lounds had no involvement in the transfer of funds between the investment account and the bank accounts. The funds were not stolen, misappropriated or converted by Lounds, but instead were transferred to the bank with authorized requests Tmade to JPMS's customer call center by Claimant. Lounds had no control over money being withdrawn from a bank account he could not access or control. Lounds never received a call from Claimant to transfer any funds to a bank account. Lounds did not have access to a call center and never worked in a call center. Lounds could not approve or disapprove a transaction from Claimant's account. The claim, allegation or information is false because Lounds established a balanced portfolio in March 2016, which Claimant signed estimating her time horizon of 11-15 years. This portfolio resulted in a gain, despite her withdrawals over the first three years of opening her account, when account was closed in 2019.

3. 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	= \$	425.00
Expungement Filing Fee	= \$	1,575.00

**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, JPMS is assessed the following:

Member Surcharge	= \$	450.00
Member Process Fee	= \$	3,750.00

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

JMPS and Fiacable submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Arbitrator has assessed the total discovery-related motion fees to Claimant.

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) pre-hearing session @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: April 5, 2021 1 session

Two (2) hearing sessions @ \$450.00/session = \$ 900.00
Hearing: February 28, 2022 2 sessions

Total Hearing Session Fees = \$ 1,350.00

The Arbitrator has assessed \$1,125.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$225.00 of the hearing session fees to jointly and severally to Respondents.

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

ARBITRATOR

Lynn Hirschfeld Brahin

-

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

Lynn Hirschfeld Brahin

Lynn Hirschfeld Brahin
Sole Public Arbitrator

03/21/2022

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.

March 21, 2022

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