

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Denise Hoffman

Case Number: 12-04083

vs.

Respondents
Gilford Securities Incorporated
Ralph Worthington, IV
Gary Mark Zwetchkenbaum

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member and Associated Persons

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Denise Hoffman: Richard B. Fosher, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondents Gilford Securities Incorporated ("Gilford Securities"), and Ralph Worthington, IV ("Worthington"): David S. Richan, Esq., Baritz & Colman LLP, Suite 2020, New York.

For Respondent Gary Mark Zwetchkenbaum ("Zwetchkenbaum"): Eric J. Sussman, Esq., Baldwin, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 27, 2012.
Amended Statement of Claim filed on or about: February 19, 2016.
Second Amended Statement of Claim filed on or about: May 3, 2016.
Denise Hoffman signed the Submission Agreement: November 19, 2012.

Statement of Answer filed by Respondent Gilford Securities on or about: February 14, 2013.
Gilford Securities signed the Submission Agreement: February 13, 2013.

Statement of Answer filed by Respondent Worthington on or about: June 17, 2016.
Ralph Worthington, IV signed the Submission Agreement: June 16, 2016.

Statement of Answer filed by Respondent Zwetchkenbaum on or about: June 17, 2016.
Zwetchkenbaum signed the Submission Agreement: June 13, 2016.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; common law fraud; breach of contract; negligence; negligent misrepresentation; omission; restitution; and negligent supervision. The causes of action relate to various securities.

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

Unless specifically admitted in the Statement of Answer, Respondent Worthington denied the allegations made in the Second Amended Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in the Statement of Answer, Respondent Zwetchkenbaum denied the allegations made in the Second Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$800,000.00; punitive damages; attorneys' fees; interest; costs; and such other and further relief as the Panel deems just and proper under the circumstances.

In the Amended Statement of Claim and the Second Amended Statement of Claim, Claimant requested compensatory damages of \$900,000.00; punitive damages; attorneys' fees; interest; costs; and such other and further relief as the Panel deems just and proper under the circumstances.

In the Statement of Answer, Respondent Gilford requested dismissal of the Statement of Claim in its entirety; costs; forum fees; expungement of this matter; and such other relief as the Panel deems just and proper.

In the Statement of Answer, Respondent Worthington requested dismissal of the Second Amended Statement of Claim in its entirety; costs; and such other relief as the Panel deems just and proper.

In the Statement of Answer, Respondent Zwetchkenbaum requested dismissal of the Second Amended Statement of Claim in its entirety; attorneys' fees; expungement of his CRD records; costs; and such other relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Claimant added Ladenburg Thalmann & Co., Inc. ("Ladenburg") as a Respondent in the Amended Statement of Claim. On March 4, 2016, Ladenburg filed a Motion for a Permanent Stay of arbitration claims by Claimant with the Supreme Court of the State of

New York, County of New York. By Stipulated Order dated April 1, 2016, the Court granted Ladenburg's Motion.

The Claimant removed Ladenburg as a Respondent in the Second Amended Statement of Claim.

By correspondence dated May 19, 2017, Claimant notified FINRA Dispute Resolution that she settled her claims with Respondent Worthington and that her claims against Respondent Worthington are dismissed with prejudice.

Respondent Gilford Securities did not appear at the evidentiary hearing. The Panel determined that Respondent received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent Gilford Securities present, in accordance with the Code.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

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

1. Respondents Gilford Securities and Zwetchkenbaum are jointly and severally liable and shall pay to Claimant the sum of \$206,783.00 in compensatory damages.
2. Respondents Gilford Securities and Zwetchkenbaum are jointly and severally liable and shall pay to Claimant interest on the award at the New York statutory rate from February 19, 2016 until the date of the award.
3. Respondent Gilford Securities' request for expungement of its CRD records is denied.
4. Respondent Zwetchkenbaum's request for expungement of his CRD records is denied.
5. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
6. Any and all claims for relief not specifically addressed herein, including punitive damages and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim 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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Gilford Securities Incorporated is assessed the following:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 4,000.00

Postponement Fees

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

April 22-25, 2014, postponement by parties	Waived
April 11-15, 2016, postponement by parties	Waived

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, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
Pre-hearing conferences: March 23, 2016	1 session
April 14 2016	1 session
July 11, 2016	1 session

Five (5) hearing sessions @ \$1,200.00/session	= \$ 6,000.00
Hearing Dates: May 22, 2017	2 sessions
May 23, 2017	2 sessions
May 24, 2017	1 session

Total Hearing Session Fees	= \$ 9,600.00
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1. The Panel has assessed \$4,800.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$4,800.00 of the hearing session fees jointly and severally to Respondents Gilford Securities and Zwetchkenbaum.

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

ARBITRATION PANEL

Irwin Kahn	-	Public Arbitrator, Presiding Chairperson
Richard W. Vallario	-	Public Arbitrator
Anna Lascar	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Irwin Kahn
Public Arbitrator, Presiding Chairperson

07/11/2017
Signature Date

Richard W. Vallario
Public Arbitrator

Signature Date

Anna Lascar
Public Arbitrator

Signature Date

July 11, 2017
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Irwin Kahn	-	Public Arbitrator, Presiding Chairperson
Richard W. Vallario	-	Public Arbitrator
Anna Lascar	-	Public Arbitrator

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Concurring Arbitrators' Signatures

Irwin Kahn
Public Arbitrator, Presiding Chairperson



Richard W. Vallario
Public Arbitrator

Signature Date

7/10/17

Signature Date

Anna Lascar
Public Arbitrator

Signature Date

July 11, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)

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Irwin Kahn	-	Public Arbitrator, Presiding Chairperson
Richard W. Vallario	-	Public Arbitrator
Anna Lascar	-	Public Arbitrator

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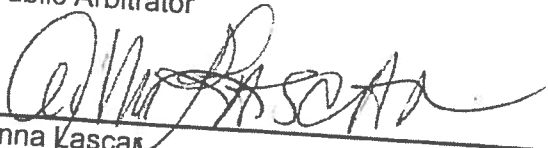
Concurring Arbitrators' Signatures

Irwin Kahn
Public Arbitrator, Presiding Chairperson

Signature Date

Richard W. Vallario
Public Arbitrator

Signature Date



Anna Lascar
Public Arbitrator



Signature Date

July 11, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)