

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

---

In the Matter of the Arbitration Between:

Claimants

Diane Ford  
Martha Nelson  
Sylvia Reed  
Diane Savone  
Rita Wuelfing

Master Consolidated Case Number: 12-03721

vs.

Respondent

Royal Alliance Associates, Inc.

Hearing Site: Los Angeles, California

***Consolidated with:***

Claimants

Janine Maxfield  
Iris Simmons

Subordinate Case Number: 13-03518

vs.

Respondent

Royal Alliance Associates, Inc.

Hearing Site: San Francisco, California

---

Nature of the Disputes:

*Master Consolidated Case 12-03721:* Customers vs. Member

*Subordinate Case 13-03518:* Customers vs. Member

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Diane Ford (“Ford”), Janine Maxfield (“Maxfield”), Martha Nelson (“Nelson”), Sylvia Reed (“Reed”), Diane Savone (“Savone”), Iris Simmons (“Simmons”) and Rita Wuelfing (“Wuelfing”), hereinafter collectively referred to as “Claimants”: Bruce D. Oakes, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent Royal Alliance Associates, Inc., hereinafter referred to as “Respondent”: William M. Turner, Esq., Jones, Bell, Abbott, Fleming & Fitzgerald, LLP, Los Angeles, California.

### **CASE INFORMATION**

Statement of Claim filed in Master Case 12-03721 by Ford, Nelson, Reed, Savone and Wuelfing on or about: October 22, 2012.

Statement of Claim filed in Subordinate Case 13-03518 by Maxfield on or about: November 29, 2013.

First Amended Statement of Claim filed in Master Case 12-03721 by Claimants on or about: September 12, 2014.

First Amended Statement of Claim filed in Subordinate Case 13-03518 by Maxfield and Simmons on or about: December 12, 2013.

Ford signed the Submission Agreement: October 4, 2012.

Nelson signed the Submission Agreement: October 5, 2012.

Savone signed the Submission Agreement: October 6, 2012.

Reed signed the Submission Agreement: October 7, 2012.

Wuelfing signed the Submission Agreement: October 8, 2012.

Maxfield signed the Submission Agreement: December 15, 2014.

Simmons signed the Submission Agreement: December 15, 2014.

Statement of Answer filed in Master Case 12-03721 by Respondent on or about: February 4, 2013.

Statement of Answer to the First Amended Statement of Claim filed in Master Case 12-03721 by Respondent on or about: December 29, 2014.

Statement of Answer to the First Amended Statement of Claim filed in Subordinate Case 13-03518 by Respondent on or about: January 28, 2014.

Respondent signed the Submission Agreement in Subordinate Case 13-03518: February 28, 2014.

### **CASE SUMMARY**

#### **Master Case 12-03721**

In the Statement of Claim, Ford, Nelson, Reed, Savone and Wuelfing asserted the following causes of action: breach of fiduciary duty; violation of California's Securities Act; breach of contract; negligence/negligent misrepresentation/omission; common law fraud; restitution; and negligent supervision. The causes of action relate to Ford,

Nelson, Reed, Savone and Wuelfing's investments in Inland Real Estate Investment Trusts and unspecified variable annuities.

Claimants' counsel filed a First Amended Statement of Claim to add Maxfield and Simmons as claimants.

Unless specifically admitted in its Answers, Respondent denied the allegations made in the Statement of Claim and the First Amended Statement of Claim.

*Subordinate Case 13-03518*

In the Statement of Claim, Maxfield asserted the following causes of action: breach of fiduciary duty; violation of California's Securities Act; breach of contract; negligence/negligent misrepresentation/omission; common law fraud; and negligent supervision. The causes of action relate to Maxfield's investments in Inland Real Estate Investment Trusts and unspecified variable annuities.

Claimants' counsel filed a First Amended Statement of Claim to add Simmons as a claimant.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the First Amended Statement of Claim.

**RELIEF REQUESTED**

In the Statement of Claim filed in Master Case 12-03721, Ford, Nelson, Reed, Savone and Wuelfing requested:

1. Compensatory damages in the amount of approximately \$2,000,000.00;
2. Punitive damages;
3. Pre-judgment interest, attorneys' fees and costs;
4. Filing fees and forum fees incurred herein; and
5. Such other and further relief the Panel deems just and proper.

In the Statement of Claim and First Amended Statement of Claim filed in Subordinate Case 13-03518, Maxfield and Simmons requested:

1. Compensatory damages in the amount of approximately \$500,000.00;
2. Punitive damages;
3. Pre-judgment interest, attorneys' fees and costs;
4. Filing fees and forum fees incurred herein; and
5. Such other and further relief the Panel deems just and proper.

In the First Amended Statement of Claim filed in Master Case 12-03721, Claimants requested:

1. Compensatory damages in the amount of approximately \$2,800,000.00;
2. Punitive damages;
3. Pre-judgment interest, attorneys' fees and costs;
4. Filing fees and forum fees incurred herein; and
5. Such other and further relief the Panel deems just and proper.

In its Statement of Answer filed in Master Case 12-03721, Respondent requested:

1. Denial of Ford, Nelson, Reed, Savone and Wuelfing's claims;
2. An award entered in favor of Respondent;
3. Assessment of all costs and non-attorneys' fees against Ford, Nelson, Reed, Savone and Wuelfing;
4. A recommendation that all references to this matter be expunged from non-party Kathleen Tarr's Central Registration Depository ("CRD") record; and
5. Such other and further relief as the Panel deems appropriate.

In its Statement of Answer to the First Amended Statement of Claim filed in Subordinate Case 13-03518, Respondent requested:

1. Denial of Maxfield and Simmons' claims;
2. An award entered in favor of Respondent;
3. Assessment of all costs and non-attorneys' fees against Maxfield and Simmons;
4. A recommendation that all references to this matter be expunged from non-party Kathleen Tarr's CRD record; and
5. Such other and further relief as the Panel deems appropriate.

In its Statement of Answer to the First Amended Statement of Claim filed in Master Case 12-03721, Respondent requested:

1. Denial of Claimants' claims;
2. An award entered in favor of Respondent;
3. Assessment of all costs and non-attorneys' fees against Claimants;
4. A recommendation that all references to this matter be expunged from non-party Kathleen Tarr's CRD record; and
5. Such other and further relief as the Panel deems appropriate.

At the close of the hearing, Claimants requested the following:

1. Compensatory damages in the amount of \$241,068.00 for Ford;
2. Compensatory damages in the amount of \$272,251.00 for Maxfield;
3. Compensatory damages in the amount of \$194,725.40 for Nelson;
4. Compensatory damages in the amount of \$354,069.00 for Reed.
5. Compensatory damages in the amount of \$217,208.00 for Savone;
6. Compensatory damages in the amount of \$205,969.00 for Simmons; and
7. Compensatory damages in the amount of \$293,686.00 for Wuelfing.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On September 11, 2014, Respondent submitted a Motion to Sever Claimants' Claims. On September 22, 2014, Claimants submitted a response opposing the motion. On September 23, 2014, Respondent submitted a reply in support of its motion.

On September 12, 2014, Claimants submitted a Motion to Join Parties and File First Amended Statement of Claim. On September 22, 2014, Respondent submitted a response opposing the motion. On September 29, 2014, Claimants submitted a reply in support of their motion.

On November 24, 2014, the Panel heard oral arguments on Claimants' Motion to Join Parties and File First Amended Statement of Claim and Respondent's Motion to Sever Claimants' Claims. On the same day, the Panel issued an order granting Claimants' Motion to Join Parties and File First Amended Statement of Claim, consolidating FINRA Case Nos. 12-03721 and 13-03518. The Panel also determined to deny Respondent's Motion to Sever Claimants' Claims.

At the beginning of the evidentiary hearing, Respondent made a motion to dismiss. Claimants opposed the motion. The Panel determined to deny it.

After the Claimants' case-in-chief, Respondent renewed its motion to dismiss. Claimants opposed the motion. The Panel determined to deny it as the evidence presented by Claimants could prove their claims.

On December 2, 2015, Paul W. Thomas, Esq., counsel for non-party Kathleen Tarr, submitted a notice that non-party Kathleen Tarr plans to file a motion for expungement. On December 8, 2015, the Panel issued the following Order, in part:

To date such Motion for Expungement has not been received by FINRA. If so received, the Panel may elect to hear arguments for or against Expungement.

Concerned Parties (Mr. Foshier and Mr. Turner) are invited to submit their support or opposition to the Motion in writing, in the event that such Motion is received from Kathleen Tarr by way of her attorney, Paul W. Thomas. Responses shall be received at FINRA by **January 10, 2016 or 10 days following receipt** of the Motion, whichever is earlier.

The Panel instructs FINRA to send Paul W. Thomas a copy of this Order. Thereby, Mr. Thomas is instructed to submit the Motion for Expungement no later than **December 30, 2015**.

On December 30, 2015, non-party Kathleen Tarr submitted a Request for Expungement and Memorandum of Points and Authorities in Support Thereof. On the same day, Respondent submitted notification that it joins in the expungement request. On January 5, 2016, Claimants submitted a response opposing the request.

The Panel conducted a recorded in-person hearing on January 29, 2016 so the parties could present oral argument and evidence on non-party Kathleen Tarr's Request for Expungement and Memorandum of Points and Authorities in Support Thereof.

The parties 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Ford compensatory damages in the amount of \$71,206.71.
2. Respondent is liable for and shall pay to Maxfield compensatory damages in the amount of \$81,575.17.
3. Respondent is liable for and shall pay to Nelson compensatory damages in the amount of \$3,811.70.
4. Respondent is liable for and shall pay to Reed compensatory damages in the amount of \$81,379.93.
5. Respondent is liable for and shall pay to Savone compensatory damages in the amount of \$51,003.21.
6. Respondent is liable for and shall pay to Simmons compensatory damages in the amount of \$62,316.32.
7. Respondent is liable for and shall pay to Wuelfing compensatory damages in the amount of \$34,850.91.
8. Respondent is liable for and shall pay to Claimants \$125,000.00 in attorneys' fees pursuant to California Civil Code §1717.
9. Respondent is liable for and shall pay to Claimants \$85,550.82 in costs.
10. Respondent is liable for and shall pay to Claimants \$600.00 as reimbursement for the non-refundable portion of the Claimants' initial claim filing fee.
11. Non-party Kathleen Tarr's request for expungement is denied.
12. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	=\$ 1,800.00
--------------------------	--------------

*\*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, Royal Alliance Associates, Inc. is assessed the following:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,000.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were waived:

July 14-18, 21-25, 2014, adjournment by parties =WAIVED

### **Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

Five (5) Decisions on discovery-related motions on the papers  
with (1) one arbitrator @ \$200.00 = \$1,000.00

Claimants submitted one discovery-related motion  
Respondent submitted four discovery-related motions

---

Total Discovery-Related Motion Fees = \$1,000.00

The Panel has assessed \$1,000.00 of the discovery-related motion fees to Respondent.

### **Contested Motion for Issuance of a Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena  
(3) three arbitrators @ \$200.00 = \$ 600.00

---

Total Contested Motion for Issuance of Subpoenas Fees = \$ 600.00

The Panel has assessed \$600.00 of the contested motion for issuance of subpoenas fees to Respondent.

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

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00  
Pre-hearing conferences: October 21, 2013 1 session  
November 20, 2013 1 session

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00/session = \$ 3,600.00  
Pre-hearing conferences: March 25, 2013 1 session  
November 24, 2014 1 session  
December 23, 2014 1 session

Seventeen (17) Hearing sessions @ \$1,200.00/session = \$20,400.00

Hearing Dates:	November 2, 2015	2 sessions
	November 3, 2015	2 sessions
	November 4, 2015	2 sessions
	November 5, 2015	2 sessions
	November 6, 2015	2 sessions
	November 30, 2015	2 sessions
	December 1, 2015	2 sessions
	December 2, 2015	2 sessions
	December 3, 2015	1 session

Two (2) Hearing sessions on expungement request @ \$1,200.00/session

Hearing Date:	January 29, 2016	2 sessions	= \$ 2,400.00
Total Hearing Session Fees			= \$27,300.00

The Panel has assessed \$27,300.00 of the hearing session fees to Respondent.

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



**ARBITRATION PANEL**

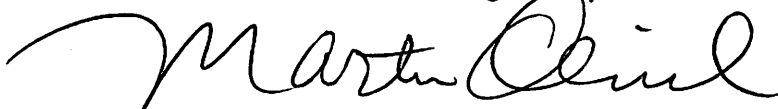
Ronald L. Cameron	-	Public Arbitrator, Presiding Chairperson
Martin Olinick	-	Public Arbitrator
Michael D. Harrison	-	Public Arbitrator

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**

\_\_\_\_\_  
Ronald L. Cameron  
Public Arbitrator, Presiding Chairperson

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



\_\_\_\_\_  
Martin Olinick  
Public Arbitrator

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

2/9/16

\_\_\_\_\_  
Michael D. Harrison  
Public Arbitrator

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

\_\_\_\_\_  
February 10, 2016  
Date of Service (For FINRA Dispute Resolution office use only)

**ARBITRATION PANEL**

Ronald L. Cameron	-	Public Arbitrator, Presiding Chairperson
Martin Olinick	-	Public Arbitrator
Michael D. Harrison	-	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**

\_\_\_\_\_  
Ronald L. Cameron  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Martin Olinick  
Public Arbitrator

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

  
\_\_\_\_\_  
Michael D. Harrison  
Public Arbitrator

*February 9, 2016*  
\_\_\_\_\_  
Signature Date

February 10, 2016  
Date of Service (For FINRA Dispute Resolution office use only)