

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Elizabeth Nickens

Case Number: 17-00750

vs.

Respondents
J.J.B. Hilliard, W.L. Lyons, LLC
and Christopher Duke Bennett

Hearing Site: Louisville, Kentucky

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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Elizabeth Nickens ("Claimant"): Michael A. Valenti, Esq., Valenti Hanley, PLLC, Louisville, Kentucky.

For Respondents J.J.B. Hilliard, W.L. Lyons, LLC ("Hilliard") and Christopher Duke Bennett ("Bennett"), hereinafter collectively referred to as "Respondents": Andrea M. Greene, Esq., Bressler, Amery & Ross, PC, Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: March 22, 2017.
Claimant signed the Submission Agreement: March 22, 2017.

Statement of Answer filed jointly by Respondents on or about: May 25, 2017.
Hilliard signed the Submission Agreement: May 25, 2017.
Bennett signed the Submission Agreement: June 14, 2017.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, unauthorized trading, suitability, churning, misrepresentation, omission of facts, common law negligence, fraud, failure to supervise, common law negligent supervision, respondeat superior, and violation of Kentucky statutes, regulations, and FINRA Rules, including, without limitation, KRS 292.480; 808 KAR 10: 440, Section 1(12), (13), (18), and (22); 808 KAR 10: 440, Section 2; 808 KAR 10: 030, Section 2 and 3; and FINRA Rules 2010, 2020, 2090, 2111, 3110. The causes of action related to losses to Claimant's qualified and non-qualified retirement accounts. Claimant alleged that Bennett executed transactions in her accounts without authorizations, allocated her assets in an

unsuitable manner for her age and investment objectives without discussing the risks associated with such re-allocation, and engaged in excessive trading in her accounts.

Unless specifically admitted in the Statement of Answer, Respondents 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	\$250,000.00
Punitive Damages	Unspecified
Attorneys' Fees	Unspecified
Costs	Unspecified
Other Monetary Relief	Unspecified

In the Statement of Answer, Respondents requested that the Panel reject Claimant's Statement of Claim in its entirety.

At the hearing, Claimant made a final damage request for a total in excess of \$900,000.00 including compensatory damages, attorneys' fees, interest, punitive damages, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

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

1. Respondents J.J.B. Hilliard, W.L. Lyons, LLC and Christopher Duke Bennett are jointly and severally liable for and shall pay to Claimant Elizabeth Nickens the sum of \$445,000.00 in compensatory damages.
2. Other than forum fees, which are specified below, the parties, shall each bear their own costs and expenses incurred in this matter.
3. 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 = \$ 1,425.00

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, J.J.B. Hilliard, W.L. Lyons, LLC is assessed the following:

Member Surcharge = \$ 1,700.00
Member Process Fee = \$ 3,250.00

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), that 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: July 14, 2017 1 session

Thirteen (13) hearing sessions @ \$1,125.00/session = \$14,625.00
Hearing Dates: January 9, 2018 1 session
January 10, 2018 2 sessions
January 11, 2018 2 sessions
January 12, 2018 2 sessions
February 5, 2018 2 sessions
February 6, 2018 2 sessions
February 7, 2018 2 sessions

Total Hearing Session Fees = \$15,750.00

The Panel has assessed \$7,875.00 of the hearing session fees to Claimant Elizabeth Nickens.

The Panel has assessed \$7,875.00 of the hearing session fees jointly and severally to Respondents J.J.B. Hilliard, W.L. Lyons, LLC and Christopher Duke Bennett.

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

ARBITRATION PANEL

Barry Goldman	-	Public Arbitrator, Presiding Chairperson
Sharon R. Merriman	-	Public Arbitrator
James E. Schlottmann	-	Non-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

/s/ Barry Goldman
Barry Goldman
Public Arbitrator, Presiding Chairperson

February 16, 2018
Signature Date

/s/ Sharon R. Merriman
Sharon R. Merriman
Public Arbitrator

February 16, 2018
Signature Date

/s/ James E. Schlottmann
James E. Schlottmann
Non-Public Arbitrator

February 15, 2018
Signature Date

February 16, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Barry Goldman	-	Public Arbitrator, Presiding Chairperson
Sharon R. Merriman	-	Public Arbitrator
James E. Schlottmann	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

/s/ Barry Goldman

Barry Goldman
Public Arbitrator, Presiding Chairperson

2/16/18

Signature Date

Sharon R. Merriman
Public Arbitrator

Signature Date

James E. Schlottmann
Non-Public Arbitrator

Signature Date

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

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Public Arbitrator, Presiding Chairperson

Signature Date

/S/Sharon R. Merriman

Sharon R. Merriman
Public Arbitrator

2/16/18

Signature Date

James E. Schlottmann
Non-Public Arbitrator

Signature Date

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Barry Goldman
Public Arbitrator, Presiding Chairperson

Signature Date

Sharon R. Merriman
Public Arbitrator

Signature Date

/s/ James E Schlottmann

James E. Schlottmann
Non-Public Arbitrator

2/15/2018

Signature Date

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