

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jill Jester

Case Number: 21-02081

vs.

Respondent
Dinosaur Financial Group, LLC

Hearing Site: Indianapolis, Indiana

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Jill Jester (“Claimant”): Bruce D. Oakes, Esq. and Richard B. Fosher, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent Dinosaur Financial Group, LLC (“Respondent”): Paul B. Koepp, Esq., Seward & Kissel LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 12, 2021.

Amended Statement of Claim filed on or about: May 13, 2022.

Claimant signed the Submission Agreement: August 12, 2021.

Statement of Answer filed on or about: October 4, 2021.

Respondent signed the Submission Agreement: October 1, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: breach of fiduciary duty, common law fraud, breach of contract, negligence/negligent misrepresentation/omission, negligent hiring, restitution, and negligent supervision. The causes of action related to Claimant’s allegation that Respondent and its agent recommended real estate investment trusts (“REITs”) and direct participation programs (“DPPs”), including Griffin

America Healthcare REIT II, Griffin Capital Essential REIT, and Healthcare Anywhere DPP, which were not suitable for Claimant's husband's IRA and resulted in exorbitant commissions and fees.

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, as amended, Claimant requested approximately \$500,000.00 in compensatory damages, punitive damages, pre-judgment interest, reasonable attorneys' fees and costs, filing and forum fees, and such other and further relief which the Panel deems just and proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed; that it be awarded its costs and disbursements in defending this matter, including attorneys' fees; and any further relief deemed just and equitable by the Panel.

At the hearing, Claimant requested compensatory damages in the amount of \$314,564.84 or \$221,242.21, depending on benchmark used; attorneys' fees of 1/3 of the gross recovery based on contingency fee agreement; interest at the rate of 8%; unspecified punitive damages; and costs and fees in the amount of \$10,471.64. Claimant offered to assign securities to Respondent as part of an award.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 21, 2022, Respondent filed a Motion to Dismiss, pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On April 4, 2022, Claimant filed a response opposing the Motion to Dismiss. On April 15, 2022, Respondent filed a Reply in support of the Motion to Dismiss.

On May 13, 2022, Claimant filed a Motion to File Amended Statement of Claim ("Motion to Amend"). On May 19, 2022, Respondent filed a response opposing the Motion to Amend ("Opposition"). On May 20, 2022, Claimant filed a Reply to the Opposition.

On July 6, 2022, the Panel heard oral arguments on the Motion to Dismiss and Motion to Amend. In an Order dated July 8, 2022, the Panel denied the Motion to Dismiss without prejudice and granted the Motion for to Amend.

On August 4, 2022, Claimant filed a Motion for Zoom Hearing. On August 5, 2022, Respondent filed a response opposing the Motion for Zoom Hearing ("Opposition to Motion for Zoom Hearing"). On the same date, Claimant filed a Reply to the Opposition to Motion for Zoom Hearing. In an Order dated August 9, 2022, the Panel granted the Motion for Zoom Hearing.

On the record at the hearing, before the conclusion of Claimant's case-in-chief, Respondent moved to dismiss Claimant's claims, asserting that all claims were untimely under Rule 12206(a) of the Code. The Panel denies the motion herein.

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. Respondent is liable for and shall pay to Claimant the sum of \$314,564.84 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 8% per annum from the date of service of this Award through and including the date this Award is paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$103,807.00 in punitive damages pursuant to Davidson v. Bailey, 826 N.E.2d 80 (Ind. App. 2005); First Federal Sav. & Loan Asso. v. Mudgett, 397 N.E.2d 1002 (Ind. App. 1979); State Farm Mutual Automotive Ins. Co. v. Campbell, 123 S. Ct. 1513 (2003); and Hobbs v. Bateman Eichler, Hill Jonathans, Inc., 164 Cal.App.3d 174 (1985).
4. Respondent is liable for and shall pay to Claimant the sum of \$10,471.64 in costs.
5. Respondent is liable for and shall pay to Claimant the sum of \$300.00 in costs to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
6. Claimant is to assign the following securities to Respondent, to the extent Claimant owns them:
 - a) Griffin America Healthcare REIT II
 - b) Griffin Capital Essential REIT
 - c) Griffin America Healthcare REIT III
 - d) Hi-Tech Veneers
 - e) Seven Hills
 - f) Northstar REIT
 - g) Healthcare Anywhere DPP
7. Any and all claims for relief not specifically addressed herein, including any requests for 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 = \$ 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 is assessed the following:

Member Surcharge = \$ 2,025.00
Member Process Fee = \$ 3,875.00

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: July 6, 2022 1 session

Three (3) hearing sessions @ \$1,125.00/session = \$ 3,375.00
Hearings: September 27, 2022 2 sessions
September 28, 2022 1 session

Total Hearing Session Fees = \$ 4,500.00

The Panel has assessed the total hearing session fees to Respondent.

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

ARBITRATION PANEL

Peter Ordower	-	Public Arbitrator, Presiding Chairperson
Gary P. Price	-	Public Arbitrator
Lynn Hirschfeld Brahin	-	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

Peter Ordower

Peter Ordower
Public Arbitrator, Presiding Chairperson

10/03/2022

Signature Date

Gary P. Price

Gary P. Price
Public Arbitrator

10/03/2022

Signature Date

Lynn Hirschfeld Brahin

Lynn Hirschfeld Brahin
Public Arbitrator

10/04/2022

Signature Date

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October 04, 2022

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