

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Vincent F. Gilotti
Mary Louise Gilotti

Case Number: 19-00408

vs.

Respondents

Mutual Securities, Inc.
Julie Lan Cohen
Nicholas Arthur Damiani
Aaron T. Jasper
Ryan Stephen Sabol
Mitchell Craig Voss

Hearing Site: Philadelphia, Pennsylvania

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: Customers vs. Member and Associated Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Vincent F. Gilotti and Mary Louise Gilotti: David Sturgeon-Garcia, Esq., The Law Offices of David Sturgeon-Garcia, Moraga, California.

For Respondents Mutual Securities, Inc., Julie Lan Cohen (“Cohen”), Nicholas Arthur Damiani (“Damiani”), Aaron T. Jasper (“Jasper”), Ryan Stephen Sabol (“Sabol”), and Mitchell Craig Voss (“Voss”): Jason T. Dennett, Esq., Lauren C. Hillemann, Esq. and Kaleigh Powell, Esq., Tousley Brian Stephens PLLC, Seattle, Washington.

CASE INFORMATION

Statement of Claim filed on or about: February 5, 2019.

Amended Statement of Claim filed on or about: November 20, 2019.

Vincent F. Gilotti signed the Submission Agreement: February 26, 2020.

Mary Louise Gilotti signed the Submission Agreement: February 25, 2020.

Joint Statement of Answer filed by Respondents on or about: April 1, 2019.
Joint Amended Statement of Answer filed by Respondents on or about: January 13, 2020.
Mutual Securities, Inc. signed the Submission Agreement: March 18, 2019.
Julie Lan Cohen signed the Submission Agreement: January 2, 2020.
Ryan Stephen Sabol signed the Submission Agreement: January 3, 2020.
Aaron T. Jasper signed the Submission Agreement: January 7, 2020.
Nicholas Arthur Damiani signed the Submission Agreement: January 8, 2020.
Mitchell Craig Voss signed the Submission Agreement: January 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant Vincent F. Gilotti asserted the following causes of action: breach of contract; breach of duty; financial elder abuse; negligence; fraud by misrepresentation and omission; failure to supervise and control; and violation of federal and state securities laws and FINRA rules.

In the Amended Statement of Claim, Claimants asserted the following causes of action: breach of contract, breach of duty, financial elder abuse, negligence, fraud by misrepresentation and omission, failure to supervise and control; violation of Federal and State Securities Laws and FINRA rules.

The causes of action relate to investments in penny stock and over-the-counter securities ("OTC stock").

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

RELIEF REQUESTED

In the Statement of Claim, Claimant Vincent F. Gilotti requested unspecified compensatory damages including market adjusted damages; rescission, lost opportunity costs; treble damages; commission disgorgement; attorneys' fees and costs; costs of suit and all other recoverable costs and expenses to the fullest extent allowed by law; interest at the maximum legal rate from the earliest possible date on all sums awarded; exemplary and punitive damages; and such other and further relief as may be just and proper.

In the Statement of Answer, Respondents requested judgement dismissing Claimant Vincent F. Gilotti's claims in their entirety; an order that Claimant Vincent F. Gilotti must pay the individual Respondents' attorneys' fees and costs spent expunging the claims from CRD records; and such other relief at law or in equity to which they are entitled.

In the Amended Statement of Claim, Claimants requested unspecified compensatory damages including market adjusted damages; rescission, lost opportunity costs; treble damages; commission disgorgement; attorneys' fees and costs; costs of suit and all other recoverable costs and expenses to the fullest extent allowed by law; interest at the maximum legal rate from the earliest possible date on all sums awarded; exemplary and punitive damages; and such other and further relief as may be just and proper

In the Amended Statement of Answer, Respondents requested judgement dismissing Claimants' claims in their entirety; an order that Claimants must pay the individual Respondents' attorneys' fees and costs spent expunging Claimants' claims from their CRD records; and such other relief at law or in equity to which they are entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 19, 2019, Respondents Damiani, Jasper and Voss ("the AP Respondents") filed a Motion to Dismiss pursuant to Rule 12504 of the Code of Arbitration Procedure ("Code"). On November 1, 2019, Claimant Vincent F. Gilotti filed an Opposition to the Motion to Dismiss and a Motion for Sanctions. On November 6, 2019 the AP Respondents filed a Reply in Support of the Motion to Dismiss and Opposition to the Motion for Sanctions. By Order dated December 24, 2019, the Panel denied the AP Respondents' Motion to Dismiss and ordered that the AP Respondents jointly and severally pay Claimant Vincent F. Gilotti's attorneys' fees and costs, and any forum fees associated with the Motion to Dismiss. On October 12, 2021, the Panel issued an Amended Order denying the AP Respondent's Motion to Dismiss but removed language that the AP Respondents jointly and severally pay Claimant Vincent F. Gilotti's attorneys' fees and costs, and any forum fees associated with the Motion to Dismiss. On October 12, 2021, the Panel also issued an Amended Order denying Claimant Vincent F. Gilotti's Motion for Sanctions.

On November 10, 2019, Claimant Vincent F. Gilotti filed a Motion to Amend the Statement of Claim to add Mary Louise Gilotti as a party and for Continuance of the hearing date. On November 15, 2019, Respondents filed an Opposition to the motion. On November 20, 2019, Claimant Vincent F. Gilotti filed a Reply in support of the Motion to Amend the Statement of Claim and for Continuance. By Order dated November 21, 2019, the Panel granted Claimant Vincent F. Gilotti's Motion to Continue the hearing date and deferred a decision on the Motion to Amend the Statement of Claim to add Mary Louise Gilotti as a party. By Order dated December 24, 2019, the Panel granted the Motion to Amend the Statement Claim to add Mary Louise Gilotti as a party.

On March 16, 2020, Claimants filed a Motion for Sanctions. On March 24, 2020, Respondents filed an Opposition to Claimants' Motion for Sanctions and Cross-Motion to Limit Discovery. On March 26, 2020, Claimants filed a Reply in Support of the Motion for Sanctions. On April 3, 2020, Claimants filed an Opposition to the Cross-Motion to Limit Discovery. By Order dated May 22, 2020, the Panel ordered Respondents to, within ten (10) days of the order, file a declaration that the affirmations made with regard to the absence of disclosures with regard to OTC securities in Claimant Vincent F. Gilotti's account are equally applicable to OTC securities in Claimant Mary Louise Gilotti's account. Upon receipt of the Declaration, Claimants Motion for Sanctions will be denied. Respondents complied with the Panel's Order on June 5, 2020.

On April 9, 2020, Claimants filed a Motion for Preclusion and Sanctions. On April 20, 2020, Respondents filed an Opposition to the Motion for Preclusion and Sanctions. On April 24, 2020, Claimants filed a Reply in Support of the Motion for Preclusion and Sanctions. By Order dated May 21, 2020, the Panel denied Claimants' Motion for Preclusion and Sanctions.

During the evidentiary hearings, Claimants' counsel stated that, after consulting with his clients and based on the evidence, he would release Respondent Damiani from the case. The Panel ordered Claimants to submit a written release during that hearing, and during at least three subsequent hearings, which they did not do.

After the evidentiary hearings, by Order dated May 19, 2021, the Panel ordered Claimants to submit a Release of Damiani as a Respondent by May 24, 2021 or sanctions will be imposed. On May 26, 2021, Respondents filed a Motion for Sanctions against Claimants for failure to timely dismiss Respondent Damiani. On May 26, 2021, Claimants filed an Opposition to the Motion for Sanctions. On May 26, 2021, Respondents filed a Reply to Claimants' Response to the Motion for Sanctions.

At a telephonic conference on June 24, 2021, the Panel heard oral arguments on Respondents' Motion for Sanctions against Claimants for failure to dismiss Respondent Damiani pursuant to the Panel's May 19, 2021 Order. By Order dated July 1, 2021, the Panel dismissed, with prejudice, pursuant to Rule 12212(c) of the Code, Claimants' claims against Respondent Damiani. The Panel also granted Respondents' claim for attorneys' fees and costs, pursuant to Rule 12212(a) of the Code.

The Panel reviewed Respondent Damiani's BrokerCheck® Report. The Panel 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 Panel relied upon the following documentary or other evidence: testimony of Respondent Damiani during the hearing on the merits on March 9, 2021.

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 Mutual Securities, Inc. and Julie Lan Cohen are jointly and severally liable for and shall pay to Claimant Vincent F. Gilotti the sum of \$368,000.00 in compensatory damages.
2. Respondent Mutual Securities, Inc. and Julie Lan Cohen are jointly and severally liable for and shall pay to Claimant Mary Louise Gilotti the sum of \$359,000.00 in compensatory damages.
3. Claimants' claims against Respondent Damiani are dismissed with prejudice pursuant to Rule 12212(c) of the Code.
4. Claimants' claims against Respondents Jasper, Sabol and Voss are denied.

5. Claimants are jointly and severally liable for and shall pay to Respondent Damiani the sum of \$5,000.00 as costs and attorneys' fees. The Panel awarded attorneys' fees and costs pursuant to Rule 12212(a) of the Code.
6. Claimants are jointly and severally liable for and shall pay to Respondent Mutual Securities, Inc. the sum of \$1,962.00 as sanctions pursuant to Rule 12212(a) of the Code.
7. Respondent Julie Lan Cohen's request for expungement of the above-captioned arbitration (Occurrence Number 2020898) from registration records maintained by the CRD is denied.
8. Respondent Aaron T. Jasper's request for expungement of the above-captioned arbitration (Occurrence Number 2020903) from registration records maintained by the CRD is denied.
9. Respondent Ryan Stephen Sabol's request for expungement of the above-captioned arbitration (Occurrence Number 2020902) from registration records maintained by the CRD is denied.
10. Respondent Mitchell Craig Voss' request for expungement of the above-captioned arbitration (Occurrence Number 2020900) from registration records maintained by the CRD is denied.
11. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2020904) from registration records maintained by the CRD for Respondent Nicholas Arthur Damiani (CRD Number 5669491) with the understanding that, pursuant to Notice to Members 04-16, Respondent Nicholas Arthur Damiani 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 Panel has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Panel has made the above Rule 2080 finding based on the following reasons:

Evidence was presented at the hearing on the merits that Respondent Damiani was not involved in the investment-related alleged sales practice violation that was the subject of the filing of the Statement of Claim by Claimants. Respondent Damiani testified that he was the Chief Operations Officer and that his responsibilities were limited to providing technological assistance and preparation of quarterly performance reports.

Based on Respondent Damiani's testimony, the Panel determined that he was not involved with Claimants' accounts and dismissed Respondent Damiani with prejudice as

a Respondent. By Order of the Panel, claims against Respondent Damiani were dismissed.

12. Any and all claims for relief not specifically addressed herein, including any requests for rescission, disgorgement, punitive damages, treble damages, and attorneys' fees are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee	= \$ 1,575.00
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**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 event giving rise to the dispute. Accordingly, as a party, Respondent Mutual Securities, Inc. is assessed the following:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

Postponement Fees

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

October 7-11, 2019, postponement requested by Respondents	= \$ 1,125.00
December 2-6, 2019, postponement requested by Claimant Vincent F. Gilotti	= \$ 1,125.00

Total Postponement Fees	= \$ 2,250.00
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The Panel has assessed \$562.50 of the postponement fees to Vincent F. Gilotti

The Panel has assessed \$1,687.50 of the postponement fees jointly and severally to Respondents.

Discovery-Related Motion Fees

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

Eight (8) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 1,600.00
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Claimants submitted six (6) discovery-related motions
Respondents submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees	= \$ 1,600.00
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The Panel has assessed \$200.00 of the discovery-related motion fees to Vincent F. Gilotti.

The Panel has assessed \$400.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$1,000.00 of the discovery-related motion fees jointly and severally to Respondents.

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

Nine (9) pre-hearing sessions with the Panel @ \$1,125.00/session		= \$ 10,125.00
Pre-Hearing Conferences:		
May 28, 2019	1 session	
July 9, 2019	1 session	
November 14, 2019	1 session	
November 18, 2019	1 session	
May 14, 2020	1 session	
January 6, 2021	1 session	
February 8, 2021	1 session	
February 12, 2021	1 session	
June 24, 2021	1 session	
Twenty (20) hearing sessions @ \$1,125.00/session		= \$ 22,500.00
Hearings:		
February 22, 2021	2 sessions	
February 23, 2021	2 sessions	
February 24, 2021	2 sessions	
February 26, 2021	2 sessions	
March 5, 2021	2 sessions	
March 9, 2021	2 sessions	
March 12, 2021	2 sessions	
March 26, 2021	2 sessions	
April 13, 2021	2 sessions	
April 26, 2021	2 sessions	
<hr/> Total Hearing Session Fees		= \$ 32,625.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant Vincent F. Gilotti.

The Panel has assessed \$18,562.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$9,000.00 of the hearing session fees jointly and severally to Respondents Mutual Securities, Inc. and Julie Lan Cohen.

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

ARBITRATION PANEL

Margaret Leggett Tarver	-	Public Arbitrator, Presiding Chairperson
M. Melvin Shralow	-	Public Arbitrator
Sheila Mercedes Griffith	-	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

Margaret Leggett Tarver

Margaret Leggett Tarver
Public Arbitrator, Presiding Chairperson

10/15/2021

Signature Date

M. Melvin Shralow

M. Melvin Shralow
Public Arbitrator

10/14/2021

Signature Date

Sheila Mercedes Griffith

Sheila Mercedes Griffith
Public Arbitrator

10/14/2021

Signature Date

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October 15, 2021

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