

**Award**  
**FINRA Office of Dispute Resolution**

---

In the Matter of the Arbitration Between:

Claimants

Myrna Barzelatto  
Myrna Wendlinger Family Limited Partners  
Herbert Pfeffer

Case Number: 16-01018

vs.

Respondent

Spire Securities, LLC

Hearing Site: New York, New York

**Consolidated with**

Claimants

David Freilicher  
William Bernstein  
Hal Nass  
Ellen Nass  
Lawrence Eisner  
Amy Eisner  
Robert Skollar  
Holla4, LLC  
Marc Hyman  
Kirstine Schaeffer  
John Skalicky  
Jean Schram  
Richard Schram  
Paul Posnick  
Helene Posnick  
Robert Gluckin  
Estate of Joan B. Gluckin  
Thomas Herrmann  
Carolyn Herrmann  
HFP Holdings, LLC  
Lynn Bruce on behalf of Betty Ziernicki Trust

Case Number: 17-01361

vs.

Respondents

Spire Securities, LLC  
Suzanne Marie McKeown  
David Lloyd Blisk

Hearing Site: New York, New York

---

Nature of the Dispute: Customers vs. Member, and Associated Persons

This case was decided by a majority-public panel.

### **REPRESENTATION OF PARTIES**

#### **16-01018**

For Claimants Myrna Barzelatto, Myrna Wendlinger Family Limited Partners, and Herbert Pfeffer: Adam Gana, Gana LLP, New York, New York.

For Respondent Spire Securities, LLC: Paul A. Lieberman, Esq., Scarinci & Hollenbeck, LLC, Red Bank, New Jersey.

#### **17-01361**

For Claimants David Freilicher, William Bernstein, Hal Nass, Ellen Nass, Lawrence Eisner, Amy Eisner, Robert Skollar, Holla4, LLC, Marc Hyman, Kirstine Schaeffer, John Skalicky, Jean Schram, Richard Schram, Paul Posnick, Helene Posnick, Robert Gluckin, Estate of Joan B. Gluckin, Thomas Herrmann, Carolyn Herrmann HFP Holdings, LLC, Lynn Bruce on behalf of Betty Ziernicki Trust: Adam J. Weinstein, Gana LLP, New York, New York.

For Respondents Spire Securities, LLC, Suzanne Marie McKeown, and David Lloyd Blisk: Paul A. Lieberman, Esq., Scarinci & Hollenbeck, LLC, Red Bank, New Jersey.

### **CASE INFORMATION**

#### **16-01018**

Statement of Claim filed on or about: April 4, 2016.

Myrna Barzelatto signed the Submission Agreement: April 4, 2016.

Myrna Wendlinger Family Limited Partners signed the Submission Agreement: April 4, 2016.

Herbert Pfeffer signed the Submission Agreement: April 4, 2016.

Statement of Answer filed by Respondent on or about: July 15, 2016.

Spire Securities, LLC signed the Submission Agreement: December 14, 2016.

#### **17-01361**

Statement of Claim filed on or about: May 24, 2017.

David Freilicher signed the Submission Agreement: May 24, 2017.

William Bernstein signed the Submission Agreement: May 24, 2017.

Hal Nass signed the Submission Agreement: May 24, 2017.

Ellen Nass signed the Submission Agreement: May 24, 2017.

Lawrence Eisner signed the Submission Agreement: May 24, 2017.

Amy Eisner signed the Submission Agreement: May 24, 2017.

Robert Skollar signed the Submission Agreement: May 24, 2017.

Holla4, LLC signed the Submission Agreement: May 24, 2017.

Marc Hyman signed the Submission Agreement: May 24, 2017.

Kirstine Schaeffer signed the Submission Agreement: May 24, 2017.

John Skalicky signed the Submission Agreement: May 24, 2017.  
Jean Schram signed the Submission Agreement: May 24, 2017.  
Richard Schram signed the Submission Agreement: May 24, 2017.  
Paul Posnick signed the Submission Agreement: May 24, 2017.  
Helene Posnick signed the Submission Agreement: May 24, 2017.  
Robert Gluckin signed the Submission Agreement: May 24, 2017.  
Estate of Joan B. Gluckin signed the Submission Agreement: May 24, 2017.  
Thomas Herrmann signed the Submission Agreement: May 24, 2017.  
Carolyn Herrmann signed the Submission Agreement: May 24, 2017.  
HFP Holdings, LLC signed the Submission Agreement: May 24, 2017.  
Lynn Bruce on behalf of Betty Ziernicki Trust signed the Submission Agreement: May 24, 2017.

Joint Statement of Answer filed by Respondents on or about: July 14, 2017.  
Spire Securities, LLC signed the Submission Agreement: July 13, 2017.  
Suzanne Marie McKeown signed the Submission Agreement: July 13, 2017.  
David Lloyd Blisk signed the Submission Agreement: July 13, 2017.

### **CASE SUMMARY**

#### **16-01018**

Claimants asserted the following causes of action: failure to supervise, negligent or intentional misstatements, control person liability, respondeat superior, unsuitability, overconcentration, violation of FINRA Rule 2210, 2010, 2020 and IM-2310-2, negligent or fraudulent misrepresentations and omissions in violation of federal and state securities law. The causes of action relate to various securities purchased by Claimants.

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

#### **17-01361**

Claimants asserted the following causes of action: failure to supervise, negligent or intentional misstatements, control person liability, respondeat superior, overconcentration, unsuitability, negligent or fraudulent misrepresentations and omissions in violation of federal and state securities law. The causes of action relate to various securities purchased by Claimants.

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**

#### **16-01018**

In the Statement of Claim, Claimants requested compensatory damages for a sum of \$300,000.00; interest at the statutory rate; attorneys' fees; expert fees; forum fees; punitive damages and such other and further relief as this Panel deems just and proper.

In the Statement of Answer, Respondents requested that Claimants' claims be dismissed with prejudice; award for attorneys' fees and costs.

**17-01361**

In the Statement of Claim, Claimants requested compensatory damages for a sum of \$22,000,000.00; interest at the statutory rate; attorneys' fees; expert fees; forum fees; punitive damages and such other and further relief as this Panel deems just and proper.

In the Statement of Answer, Respondents requested that the Panel dismiss all claims and issue an order denying all claims for compensatory damages, interest, forum fees, and expert fees; punitive damages, attorneys' fees; award Respondent their fees, costs, attorneys' fees and expert witness fees; and grant expungement of this matter to each individual Respondent and Respondent Spire from their respective CRD event disclosures pursuant to Rule 2080.

At the close of the hearing, Claimants requested damages of \$12,304,310.00 plus interest, assessment of at least 75% of the hearing cost against Respondents and awarding \$25,589.00 in costs.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

On or about August 22, 2016, Claimants' filed a Motion for Sanctions. On August 31, 2016, Respondent filed an Opposition to the Motion for Sanctions.

On or about November 18, 2016, Claimants' filed a Motion to Compel and Further Support of Motion for Sanctions. On November 25, 2016, Respondent filed an opposition to Claimants' Motion to Compel and Motion for Sanctions and on November 29, 2016, Claimants' filed a Reply in Further Support of their Motion to Compel and for Sanctions.

On or about July 18, 2016, Respondent filed a Motion to Dismiss pursuant to Rule 12504. On October 14, 2016, Claimant filed a Renewed Motion for Sanctions and Opposition to Motion to Dismiss and on October 20, 2016, Respondent filed a Reply in support of its Motion to Dismiss.

On November 29, 2016, the Panel heard oral arguments on Respondent's Motion to Dismiss. By Order dated November 29, 2016, the Panel denied Respondent's Motion to Dismiss. The Panel awarded attorneys' fees and costs incurred in connection to the Motion to Dismiss to Claimants.

On January 11, 2017, the Panel heard oral argument on Claimants' Motion to Compel and for Sanctions. By Order dated February 9, 2017, the Panel denied Claimants' Motion for Sanctions.

On or about July 24, 2017, Claimants' filed a Motion to Consolidate Case numbers 16-01018 and 17-01361. On August 10, 2017, Respondent filed an opposition to the Motion to Consolidate and on August 15, 2017, Claimants' filed a Reply in support of their Motion to Consolidate.

On September 14, 2017, the Panel heard oral argument on Claimants' Motion to Consolidate. By Order dated September 14, 2017, the Panel granted Claimants' Motion to consolidate Case 17-01361 with Case 16-01018.

At the conclusion of Claimants case-in-chief, Respondents made a Motion to Dismiss and Claimants opposed the motion. After due deliberation, the Panel denied Respondents Motion to Dismiss.

Arbitrator Albert Rizzo dissented on the award because the Claimants' did not demonstrate entitlement as to the relief requested.

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 are jointly and severally liable for and shall pay to Claimants the sum of \$3,000,000.00 in compensatory damages.
2. Respondents' requests for expungement of their CRD records are denied.
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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Spire Securities, LLC 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:

June 13, July 11-13, August 8-10, September 13 &18-19, 2017 and December 11, 2017 postponement by parties	= \$1,125.00
August 14-17, 2017, postponement by parties	WAIVED
November 9, 2018, postponement by Respondent	WAIVED
February 8, 2019, postponement by Claimants.	WAIVED
<hr/>	
Total Postponement Fees	= \$1,125.00

The Panel has assessed \$562.50 of the adjournment fees jointly and severally to Claimants.

The Panel has assessed \$562.50 of the adjournment fees jointly and severally to Respondents.

**Last Minute Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

November 9, 2018, postponement requested by Respondent.	= \$1,800.00
<hr/>	
Total Last Minute Cancellation Fees	= \$1,800.00

The Panel assessed the \$1,800.00 last minute cancellation fees jointly and severally to the Respondents.

**Discovery-Related Motion Fee**

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

Three (3) decisions on discovery-related motions on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 600.00
---	-------------

Claimants submitted two discovery-related motions  
Respondents submitted one discovery-related motion

<hr/>	
Total Discovery-Related Motion Fees	= \$ 600.00

The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$400.00 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, 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: March 8, 2017	1 session
September 20, 2018	1 session

Six (6) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 6,750.00
Pre-hearing conferences: September 26, 2016	1 session
November 29, 2016	1 session
January 11, 2017	1 session
February 16, 2017	1 session
July 20, 2017	1 session
September 14, 2017	1 session

Six (5) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$ 7,500.00
Pre-hearing conferences: December 28, 2017	1 session
January 30, 2018	1 session
August 2, 2018	1 session
January 11, 2019	1 session
February 28, 2019	1 session

Thirty-Six (36) hearing sessions @ \$1,500.00/session	= \$54,000.00
Hearing Dates: October 22, 2018	2 sessions
October 23, 2018	2 sessions
October 24, 2018	2 sessions
October 29, 2018	2 sessions
October 30, 2018	2 sessions
November 5, 2018	2 sessions
November 6, 2018	2 sessions
November 7, 2018	2 sessions
November 29, 2018	2 sessions
November 30, 2018	2 sessions
January 15, 2019	2 sessions
January 16, 2019	2 sessions
January 17, 2019	2 sessions
January 18, 2019	2 sessions
February 5, 2019	2 sessions
February 7, 2019	2 sessions
April 9, 2019	2 sessions
April 10, 2019	2 sessions

---

Total Hearing Session Fees	= \$69,150.00
----------------------------	---------------

The Panel has assessed \$31,612.50 of the hearing session fees, jointly and severally to Claimants.

The Panel has assessed \$37,537.50 of the hearing session fees jointly and severally to Respondents.

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

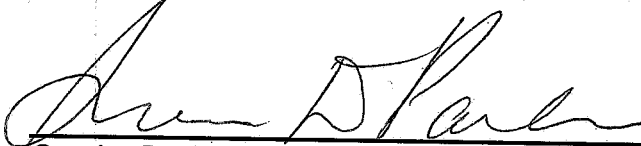


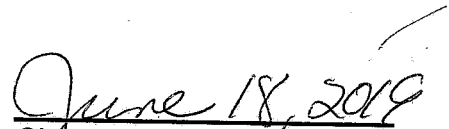
**ARBITRATION PANEL**

Sandra D. Parker	-	Non-Public Arbitrator, Presiding Chairperson
Amy Banet	-	Public Arbitrator
Albert Rizzo	-	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**

  
\_\_\_\_\_  
Sandra D. Parker  
Non-Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Amy Banet  
Public Arbitrator

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

**Dissenting Arbitrator Signatures**

\_\_\_\_\_  
Albert Rizzo  
Public Arbitrator

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

**June 20, 2019**

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

**ARBITRATION PANEL**

Sandra D. Parker	-	Non-Public Arbitrator, Presiding Chairperson
Amy Banet	-	Public Arbitrator
Albert Rizzo	-	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**

\_\_\_\_\_  
Sandra D. Parker  
Non-Public Arbitrator, Presiding Chairperson

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

Amy Banet  
\_\_\_\_\_  
Amy Banet  
Public Arbitrator

6/19/19  
\_\_\_\_\_  
Signature Date

**Dissenting Arbitrator Signatures**

\_\_\_\_\_  
Albert Rizzo  
Public Arbitrator

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

**June 20, 2019**

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

**ARBITRATION PANEL**

Sandra D. Parker	-	Non-Public Arbitrator, Presiding Chairperson
Amy Banet	-	Public Arbitrator
Albert Rizzo	-	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**

---

Sandra D. Parker  
Non-Public Arbitrator, Presiding Chairperson

---

Signature Date

---

Amy Banet  
Public Arbitrator

---

Signature Date

**Dissenting Arbitrator Signatures**



---

Albert Rizzo  
Public Arbitrator

June 19, 2019

---

Signature Date

**June 20, 2019**  
Date of Service (For FINRA Office of Dispute Resolution office use only)