



ST. JOHN'S
UNIVERSITY
SCHOOL OF LAW



The
Hugh L. Carey Center
for Dispute Resolution

&



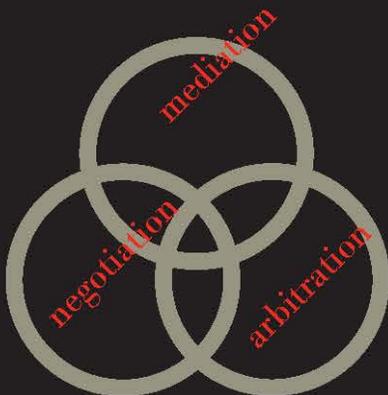
The Financial Industry
Regulatory Authority

present the

Eighth Annual

Securities Dispute Resolution *Triathlon*

A Three Skill Lawyering Event
Consisting of Competitions in



Saturday and Sunday
October 15–16, 2016

Manhattan Campus
101 Astor Place,
New York, NY

ST. JOHN'S UNIVERSITY SCHOOL OF LAW and THE FINANCIAL INDUSTRY REGULATORY AUTHORITY

The Eighth Annual SECURITIES DISPUTE RESOLUTION TRIATHLON PROBLEM – 2016

“Structured Conflicts”

Jamie Dixon, Broker and

AGLV Financial Services, Inc.

Take a number, get in line
Hurry up and take your time
Don't make waves, you'll do just fine
Make sure your interests don't conflict with mine
-Joe Perry
From “Conflicts of Interest” by the Joe Perry Project

When a Structured Product that is recommended by the firm fails, what is the allocation of responsibility between the broker who has recommended the Structured Product to (his)(her) clients and the brokerage firm? This reoccurring issue raises other questions as well. What level of due diligence, if any, must a broker perform before advising his/her clients to invest in products being offered by his/her investment firm? When a broker is acting as an agent of both the brokerage firm and the customer, where does the broker's primary loyalty lie? If you are already moaning and groaning as you get ready to tackle this nuanced issue, take comfort in knowing Triathlon Competitors have a reputation for resolving even the most complex of problems.

Background Facts

Jamie Dixon is a forty-year-old financial advisor¹ who has spent the last seventeen years building (his)(her) customer base. (S)he received (his)(her) undergraduate degree and Master of Business Administration from St. John's University. At St. John's, (s)he had the good fortune to be mentored by (his)(her) accounting professor, Avery Lee, CPA. During Jamie's time at St. John's, Professor Lee helped Jamie get (his)(her) foot in the financial industry, first helping Jamie secure an internship and then a job as a broker at Mammoth Investments. Mammoth Investments is one of the very few firms that made money during the dot-com bubble. Professor Lee also became a significant referral source for Jamie and sent (him)(her) a steady stream of new clients. Professor Lee has since retired and is now breeding Australian Kelpies.

In 2004, Jamie left Mammoth and moved to AGLV Financial Services, Inc. ("AGLV"), because AGLV offered a wider range of investment products. At AGLV, Jamie serviced the accounts of many high net worth clients, many of whom were interested in these additional products. (S)he prided (him)(her)self for "knowing (his)(her) customers" and making suitable recommendations for them based on their risk profiles, investment objectives and the investment products offered by AGLV.

AGLV is a wholly owned subsidiary of AGLV Banking International ("AGLV Banking"), an international banking corporation headquartered in the United States. AGLV Banking has a one hundred and fifty year history in the international banking industry. In 1923, AGLV was formed. AGLV is a full service broker-dealer organized and incorporated under the laws of Delaware and headquartered in New York City. AGLV now has over 15,000 employees working from branch offices throughout the

¹ Jamie Dixon is a registered broker who has passed the Series 7 and 63 exams, required exams to be a broker. For information about the various qualification exams, see <http://www.finra.org/industry/qualification-exams>.

United States. During their long history, both AGLV Banking and AGLV have weathered the inevitable ups and downs of the financial industry.

In 2003, AGLV began selling Structured Products.² AGLV primarily, but not exclusively, offered its clients structured products issued by CEKK Holdings, Inc. (CEKK). CEKK's structured products were "principal protected notes," and CEKK was the guarantor of the investments.³

Kelsey Shannon had been CEKK's Marketing Manager until AGLV hired Shannon in 2003 to head its Structured Products Department. AGLV's Structured Products Department was responsible for educating and training AGLV financial advisors about structured products by providing them with internal-use-only and client-approved marketing and explanatory materials. As part of their educational role, the AGLV Structured Products Department held training seminars and periodic conference calls with AGLV advisors about new structured products. The Structured Products Department was also an information resource for AGLV advisors, making available Regional Structured Products consultants to any advisor who desired additional information and guidance.

² Structured products in general do not represent ownership of any portfolio of assets but rather are promises to pay made by the product issuers. Structured notes with principal protection typically reflect the combination of a zero-coupon bond, which pays no interest until the bond matures, with an option or other derivative product whose payoff is linked to an underlying asset, index or benchmark. The underlying asset, index or benchmark can vary widely from commonly cited market benchmarks to foreign equity indices, currencies, commodities, spreads between interest rates or "hybrid" baskets of various asset types. For example, a note might be based on the performance of an equally weighted basket composed of the Russell 2000, an exchange-traded fund tracking a real estate index, the Brazilian Real-U.S. Dollar exchange rate and the price of copper. These products are designed to return some or all principal at a set maturity date—typically ranging up to 10 years from issuance. The investor also is entitled to participate in a return that is linked to a specified change in the value of the underlying asset. See, FINRA Investor Alert: "Structured Notes With Principal Protection: Note the Terms of Your Investment," available at <http://www.finra.org/investors/alerts/structured-notes-principal-protection-note-terms-your-investment>. See also, FINRA Regulatory Notice 09-73, "Principal-Protected Notes FINRA Reminds Firms of Their Sales Practice Obligations Relating to Principal-Protected Notes," available at <http://www.finra.org/sites/default/files/NoticeDocument/p120596.pdf>.

³ See footnote 2 above for further explanation.

In addition to supporting Structured Products sales, AGLV's Structured Products Department was also responsible for structured product issuer due diligence.⁴ Shannon, the head of the AGLV Structure Products Department, had no previous experience conducting this type of due diligence.

Among the due diligence steps AGLV's Structured Products Department took with respect to CEKK's structured products was a review of the offering documents for each product and the credit rating agencies' analysis of CEKK. From 2003 until 2014, CEKK was either "AA" or "A" rated,⁵ suggesting an exceptionally low risk of default on its debt.

However, to the surprise of many analysts and investors, in early March 2015, CEKK issued a preliminary earnings announcement that reported a net loss of approximately \$1 billion, or losses of \$2.50 per common share, for the first quarter. CEKK had previously reported net income of \$40 million, or \$0.10 per common share, for the last quarter of fiscal 2014 and \$900 million, or \$2.25 per common share, for the first quarter of fiscal 2014. CEKK had incurred such large losses because it was heavily invested in the energy sector, which was suffering during this time period.

In response, AGLV announced to its financial advisors that it had temporarily suspended sales of new CEKK structured products in order to evaluate CEKK's situation. AGLV's Structured Products Department conducted its own investigation by reviewing publicly available information about CEKK, including its financial

⁴ As outlined in FINRA Regulatory Notice 09-73, firms are required to perform adequate due diligence, which includes carefully reviewing and understanding the risks, costs, terms and conditions of the product being offered. Firms should also consider the creditworthiness of the guarantor in assessing the suitability of products offering full or partial principal protection. Firms should also fully understand the nature and terms of the principal guarantee, as well as the investment's pay-out structure, costs and fees.

⁵ For information about credit ratings, see, Moody's: <https://www.moody.com/Pages/amr002002.aspx>, S&P: http://www.spratings.com/en_US/understanding-ratings#firstPage, and Fitch: <https://www.fitchratings.com/site/definitions/nationalratings>.

statements, public filings and analysts' reports. At about this time, in mid-March 2015, CEKK's rating was downgraded by several rating agencies to "BBB" or "BB+," which was still investment grade. Based on the Structured Products Department's research, AGLV concluded at this time that CEKK's credit risk remained relatively low. It resumed sales of CEKK's structured products; however, it reminded its financial advisors to "consider [the] client's risk profile and the credit quality of the issuer prior to recommending an investment in a structured product."

However, in June 2015, CEKK filed for Chapter 11 bankruptcy. Even though CEKK eventually liquidated its assets, there were not sufficient funds to repay principal to the investors in CEKK's structured products. As with many bankruptcies, the investors lost their full investment.

As was mentioned earlier, one reason Jamie decided to join AGLV was because of the variety of investment products it offered. Jamie was interested in learning more about structured products and took advantage of the education and training offered by the AGLV Structured Products Department. Jamie was on the Structured Products Department's mailing list and received regular updates, invitations to participate in conference calls, and other information from AGLV relating to Structured Products.⁶

Within a few months of (his)(her) arrival at AGLV, Jamie began recommending structured products as a suitable investment for several of (his)(her) clients. Jamie performed a suitability analysis for each client. When Jamie was considering whether the structured products were a suitable recommendation for a particular client, Jamie relied upon the materials and information provided by the AGLV Structured Products Department.

⁶ The January 20, 2015 Credit and Liquidity Q&A sent to all AGLV financial advisors, including Jamie, provided that "structured products are senior unsecured debt obligations of the issuer," that "[t]he issuer is rated as to its ability to repay its senior unsecured debt generally," and that "[a]n investment in...Structured Products involves risks. These risks can include...credit risk."

Between 2006 and 2015, Jamie recommended to more than half of (his)(her) clients that they invest in a CEKK Structured Product. Jamie, as was required by securities laws, provided (his)(her) clients with the preliminary, or “free writing,” prospectuses (“FWPs”) for the CEKK structured products.⁷ Jamie also provided (his)(her) clients with the client-approved marketing materials which had been prepared by the AGLV Structured Products Department. In total, Jamie made over seventy such recommendations over the years. Of the seventy recommendations, twenty-five of Jamie’s clients decided to invest in eight different CEKK structured products.

In a face-to-face meeting in late March 2015, Jamie received personal assurances from Shannon that AGLV saw no material risk in the CEKK structured products. However, following the news in March 2015 of CEKK’s losses, Jamie recommended to at least two of (his)(her) clients, who sought to take a more conservative approach, to reduce their CEKK structured products positions.

When the news of CEKK’s bankruptcy became known in June 2015, Jamie received concerned calls from many of (his)(her) clients who were invested in the CEKK Structured Products. The only information that Jamie and the AGLV Structured Products Department were able to provide was that CEKK had filed bankruptcy.

As a long-time employee of AGLV, Jamie was troubled by the suddenness of CEKK’s bankruptcy and would have expected AGLV to tell (him)(her) if the firm had concerns about the safety of CEKK or its structured products, or if their risk characteristics had shifted.

⁷ Among the plainly stated risk disclosures that CEKK provided in each structured product FWP were these: “The Securities are not deposit liabilities of CEKK Holdings, Inc. and are not FDIC insured.” “Investing in the Securities involves significant risks. You will not receive interest or dividend payments during the term of the Securities. You may lose some or all of your Principal Amount. The contingent repayment of principal applies only if you hold the Securities to maturity. Any payment on the Securities, including any repayment of principal at maturity, is subject to the creditworthiness of CEKK. If CEKK were to default on its payment obligations, you may not receive any amounts owed to you under the Securities and you could lose your entire investment.”

Distressed about their financial losses after CEKK's bankruptcy filing, five clients transferred their accounts from Jamie to different brokers at different firms. By September 2015, eight of Jamie's clients who purchased CEKK structured products wrote to AGLV to complain that the firm misrepresented or failed to disclose the features and risks of the structured products. Notably, these clients did not allege any complaints against Jamie. Twelve of Jamie's clients who had invested in CEKK structured products neither transferred their accounts nor complained, believing their losses were due to the risk of investing in the midst of a market crash, and not because of anything the firm had done.

What caused this product failure? Who should bear the responsibility for the losses incurred by the failed products, the broker or the brokerage firm? Or was this just the inherent risk of investing?

Shortly after the eight customer complaints were sent to the firm, AGLV's legal department reviewed the complaints. As part of the review, the legal department spoke with Jamie, Jamie's manager, and reviewed the clients' account paperwork. By early October 2015, AGLV sent the clients letters, denying the complaints, explaining to the clients that it had done nothing wrong and that the losses were a result of CEKK's bankruptcy, not a result of unsuitable recommendations or misrepresentations by the firm.

Jamie spoke with the eight clients who had filed the complaints, none of whom had yet transferred their accounts away. The clients had hoped that they would be able to resolve their complaints and would then be willing to keep their accounts with the firm and with Jamie. However, because the firm so adamantly denied any responsibility for what had happened, each client explained to Jamie that they felt they had no choice but to transfer their accounts and file arbitration claims against the firm. Jamie told each client that if that happened (s)he would be willing to testify about what information (s)he had been provided about the CEKK structured

products. Jamie also mentioned that the firm was still saying that it saw no material risk in CEKK in March 2015, notwithstanding its large losses and ratings downgrade.

Jamie disagreed with the position taken by AGLV, because Jamie thought that the AGLV Structured Products Department had a responsibility to know more than it did about CEKK's financial viability. In October 2015, Jamie shared this view with (his)(her) manager. Jamie informed (his)(her) manager that if the firm didn't resolve the customer complaints, each would be filing an arbitration complaint. If the complaint was filed, Jamie intended to cooperate with the clients because (s)he believed the firm had acted improperly both when (i) offering the CEKK structured products; and (ii) providing inadequate information to the clients holding the CEKK structured products once it became apparent CEKK was having financial difficulties.

Shortly thereafter, during the month of October 2015, Jamie began negotiations to move to NWKS Financial. Jamie was no longer happy with the atmosphere at AGLV. Jamie was especially dissatisfied with how (his)(her) clients had been treated when CEKK went bankrupt. On October 29, 2015, the day before Jamie was going to submit (his)(her) resignation to (his)(her) manager at AGLV, (s)he was told that (s)he was terminated, and that (s)he had thirty minutes to clear out (his)(her) office. Luckily, Jamie had completed negotiations with NWKS, and was able to begin working there the following day.

The following week, Jamie received (his)(her) U5 termination notice in the mail.⁸ It stated: "Discharged" under the Reason for Termination and the explanation for termination listed was, "Failure to follow firm policies." Understandably, Jamie was very upset, because (s)he was not aware that there were any policies that (s)he had failed to follow. The firm did not offer any further explanation. This explanation for termination was publicly available on Jamie's BrokerCheck.

⁸ The Form U5 is the Uniform Termination Notice for Securities Industry Registration. Brokerage firms must use this form to terminate the registration of an individual in the appropriate jurisdictions and/or self-regulatory organizations ("SROs"). For more information, see <http://www.finra.org/industry/terminate-individuals-registration>.

In late 2015, Shannon resigned from AGLV and left the industry. Shannon's whereabouts are unknown.

As for the customer complaints, in early November 2015, AGLV decided to offer settlements to five of the eight clients who had made complaints. In total, the firm paid the clients \$450,000, which represented 60% of the losses suffered by the clients. The clients ultimately moved their accounts from the firm, following Jamie to NWKS. For personal reasons not disclosed, the three remaining clients chose not to pursue their complaints further, and ultimately transferred their accounts to Jamie at NWKS.

In late November 2015, following the client settlements and subsequent client account transfers, AGLV sent Jamie a demand letter. In that letter, AGLV asked Jamie to pay the firm 75% of the \$450,000 from the settlements pursuant to the Indemnification Clause contained within Jamie's employment agreement.⁹ Jamie refused.

On January 11, 2016, AGLV filed an arbitration claim against Jamie, seeking partial indemnification for the client settlements pursuant to the Indemnification Clause of the Employment Agreement. AGLV requested \$337,500 in damages, as well as costs and attorneys' fees.

On February 19, 2016, Jamie filed a Statement of Answer and Counterclaims, denying AGLV's right to partial indemnification under the Employment Agreement. Additionally, Jamie requested that (his)(her) U5 be expunged to change the reason for termination to "Voluntary" and to have the explanation for termination deleted

⁹ A copy of Jamie's Employment Agreement is attached to the Statement of Claim (Attachment 1) as Exhibit A. A copy of the letter AGLV sent to Jamie regarding the request for contribution is attached to the Statement of Claim as Exhibit B.

on the grounds that the information filed by AGLV was defamatory.¹⁰ Jamie also claimed that AGLV breached FINRA Rule 2010, and sought compensatory damages in an amount not less than \$40,000, as well as costs and attorneys' fees.

On March 8, 2016, AGLV filed its Statement of Answer to Respondent's Counterclaims, denying all allegations set forth therein, requesting that the counterclaim be dismissed in its entirety.

NEGOTIATION ROUND:

In this round, each team is to negotiate based on the background facts and the private facts of the client the team is representing. Parker Ashley, the Chief Compliance Officer for AGLV¹¹ will be the corporate representative for AGLV. Parker and Jamie shall be the parties present at the negotiation.

MEDIATION ROUND:

In this round, please assume that there was no agreement reached in the negotiation round because AGLV and Jamie could not agree on appropriate U5 language which was agreeable to both parties. Each team is to proceed based on the background

¹⁰ Expungement in Intra-Industry Disputes: Rules 2080, 2081, 12805 and 13805 do not apply to intra-industry disputes, unless the information to be expunged involves customer dispute information. For example, a broker may request expungement of the reason for termination (e.g., failure to meet production standards) reported on his or her CRD record by a former employer. Since this request does not involve customer dispute information, arbitrators may recommend expungement of this information from the CRD system without addressing the standards set forth in Rule 2080 or the procedural requirements under Rules 12805 and 13805. FINRA will expunge the referenced information if the award is confirmed by a court of competent jurisdiction. If the arbitrators recommend expungement of non-customer dispute information and also determine that the information is defamatory in nature, FINRA will expunge the information without a court order. When requesting expungement in these situations, parties should present evidence to the arbitrators that demonstrates that the information in the broker's CRD record is defamatory in nature, thereby portraying the broker in a negative light. If the arbitrators are satisfied that the information is defamatory in nature, they must clearly state in the award that they are recommending expungement based on the defamatory nature of the information in the CRD system. Arbitrators, however, are not required to find or to state explicitly in the award that all elements required to satisfy a claim in defamation under governing law have been met. See, <http://www.finra.org/sites/default/files/FINRA-expungement-training-sept-2015.pdf>

¹¹ Parker Ashley has been employed by AGLV for the past 20 years. Parker has been the Chief Compliance Officer for AGLV for the past 10 years, and was in lower compliance positions prior to that time.

facts and the private facts of the client the team is representing. Please disregard any additional information that might have been revealed in the previous round as well as any agreements that might have been discussed. Parker, as the corporate representative for AGLV and Jamie shall be the parties present at the mediation.

ARBITRATION ROUND:

In this round, please assume that there was no agreement reached in the mediation round because each side believed they had a winning case and was confident a panel of arbitrators would agree. In this round, each team is to proceed based on the background facts and the private facts of the client the team is representing. Please disregard any additional information learned in the previous two rounds as well as any agreements that might have been reached.

There will be one witness for each side: Parker Ashley for the Claimant (Parker is also appearing as AGLV's corporate representative) and Jamie for the Respondent. The Statement of Claim with exhibits is attached hereto as "Attachment 1." The Statement of Answer and Counterclaims is attached hereto as "Attachment 2." The Statement of Answer to Respondent's Counterclaims is attached hereto as "Attachment 3." AGLV's signed Submission Agreement is "Attachment 4," and Jamie's signed Submission Agreement is "Attachment 5." The Statement of Claim with exhibits, the Statement of Answer and Counterclaim, and the Statement of Answer to Respondent's Counterclaim will be Arbitrator's Exhibit One and are therefore part of the record.

* This problem was collaboratively created by Ken Andrichik, Elayne E. Greenberg, Christine Lazaro, Kristine Vo and Nicholas Weiskopf.

Private Facts for AGLV, Parker Ashley, AGLV's Compliance Officer, and AGLV's In-house Counsel:

AGLV is a survivor in the ups and downs of the financial world. One reason AGLV has survived is that it has a reputation for being a company of integrity. Another contributing reason for AGLV's resilience is that the company continues to evolve with financial innovation and new products. Yes, AGLV took some punches between 1999 and 2002 when the dot.com bubble burst and its aftermath was felt, and again when the financial crisis hit in 2008, but it has survived.

In 2003, AGLV decided that the time was right to enter the Structured Products Market. Although some financial services firms had opted to offer structured products that they themselves had issued, AGLV opted to primarily sell the structured products of CEKK. That choice was a reasoned one. CEKK was a large company, had issued debt for some time and had strong financials.

However, in March 2015, CEKK was suffering losses. CEKK's losses, as well as its credit downgrade, were a reflection of the widespread losses in the energy sector, in which CEKK was heavily invested. AGLV, along with many other financial services firms, decided to take a wait and see approach. However, AGLV did advise its brokers to take the credit quality of the issuer into account when recommending structured products to their clients.

To AGLV's surprise, CEKK filed for bankruptcy in June 2015. The CEKK bankruptcy occurred at a time when a number of oil and gas companies were filing for bankruptcy. However, AGLV had no knowledge or the ability to predict that CEKK was going to file bankruptcy and that it would default on all of its structured products. AGLV does not have a crystal ball.

AGLV hires brokers with experience and knowledge in the industry and offers them the support to service and grow their business. AGLV's support is supposed to

complement, not transplant, the broker's own professional judgment and knowledge of (his)(her) client and the products (s)he is selling. To the best of AGLV's knowledge, what happened with these structured products was the result of the failure of CEKK, and had nothing to do with AGLV or its brokers. Experienced brokers choose to work for AGLV because of AGLV's longstanding reputation of integrity. Every broker understands that AGLV makes products available to its brokers but does not require its brokers to sell those products. When providing investment guidance to their clients, brokers must always use their own professional judgment to make a suitable recommendation to the client.

Imagine AGLV's sense of betrayal when Jamie joined forces with clients who had suffered losses from the CEKK structured products and fought against it. How dare Jamie bite the hand that feeds (him)(her). The firm suspects that Jamie may have been encouraging the clients to complain to AGLV to cover up (his)(her) own possible responsibility for client losses. If the risk wasn't right for the clients, it was Jamie's obligation to advise the clients to move their assets. It was also clear that Jamie was looking to move firms, and this was a perfect way for Jamie to ensure the clients' loyalty. It became clear that Jamie was even sharing the firm's "For Internal Use Only" documents with clients, no doubt to show that (s)he was "looking out for them." Of course, the documents did not really contain any confidential information; they were summaries of the marketing materials that were made available to the clients. The only really substantive difference was that the "Internal Use Only" documents did not contain the disclosures that would have appeared on the client documents.

AGLV initially brought Jamie on because it believed Jamie was a rising star, just the type of broker for AGLV. With the benefit of hindsight, AGLV realizes what a mistake it made in hiring Jamie. AGLV was left holding the bag for Jamie's inability to manage (his)(her) client relationships, and (s)he should bear the responsibility. Jamie's conduct was a violation of AGLV's expectation that employees would be good corporate citizens.

In total, AGLV brokers sold over \$100 million of CEKK structured products between 2014 and 2015 alone. With the benefit of hindsight, maybe Shannon should have had more experience with structured products, especially product due diligence. Even if there was appropriate due diligence, there may have been a potential conflict with Shannon and CEKK since CEKK was both Shannon's former employer and the primary issuer of AGLV's structured products. AGLV received a number of customer complaints following CEKK's bankruptcy. AGLV understands that the issues surrounding Shannon's inexperience and prior connection with CEKK might raise some eyebrows with arbitrators. This is the primary reason AGLV agreed to settle with a large number of clients, including Jamie's five clients, who complained about their CEKK Structured Products losses. AGLV, in consultation with AGLV's attorneys thought it best to settle at that point, rather than risk having arbitration claims filed or any other regulatory inquiries.

AGLV paid out a total of \$20 million, of which \$450,000 was paid to Jamie's clients. AGLV would have settled with Jamie's other three clients as well, but the clients didn't pursue their complaints once AGLV sent the denial letters. The five who settled responded to AGLV's denial letters expressing their determination to continue going forward with their complaints.

AGLV didn't seek indemnification from the other brokers whose clients it settled with. However, AGLV is seeking indemnification from Jamie, because Jamie was the only broker who seemed to be encouraging (his)(her) clients to complain. And Jamie was the only broker to leave the firm and take (his)(her) clients with (him)(her) right after the firm settled. Sure, other brokers left at this time, but not under these circumstances.

AGLV is aware that this matter must be resolved in a way that keeps their public image intact. After all, investors seek out financial firms of integrity.

Private Facts for Jamie:

AGLV has branded itself as a firm of financial integrity. In fact, Jamie was initially drawn to AGLV because of that brand. What a joke! The power of marketing! From Jamie's experience with AGLV, they are anything but a firm of integrity. How dare AGLV go after Jamie for financial contribution when it settled with clients because of something it did wrong! Making a bad situation even worse, the termination language on Jamie's U5 is a black mark that is publicly disclosed and will adversely impact Jamie's earning capacity. Jamie is livid that AGLV never even explained what policies and procedures were violated. Jamie believes that AGLV should not be able to file a U5 that has untruthful information that will affect a person's ability to earn a living.

Sure, Jamie was able to get another job, but only because that was already in the works before this happened. What if Jamie wants to move again? How will Jamie explain this? It is unclear about how many existing clients and potential clients since the end of 2015 have looked up Jamie's record, saw the U5 and decided not to work with Jamie. This untruthful information may have already impacted Jamie's earning capacity and could continue to adversely impact Jamie's earning capacity throughout (his)(her) career. In late 2015 and early 2016, Jamie's annual income has already begun to decline, and is down 25%.¹²

At AGLV, brokers are expected to be good corporate citizens and encourage AGLV's recommended products to clients. Yes, AGLV is now asserting that brokers should exercise their own professional judgment when making client recommendations. However, Jamie knows that isn't true.

From the beginning, it was clear that AGLV wanted its brokers to sell CEKK's structured products. It made a wealth of information available about the structured

¹² See the Statement of Answer and Counterclaims (Attachment 2) for specific information with respect to Jamie's salary information.

products. It touted its Structured Products Department to its brokers, going so far as to boast about the fact that the head of the department was CEKK's former Marketing Manager. The Structured Products Department held training seminars and periodic conference calls about new products, made their Regional Structured Products consultants available to brokers and had an e-mail distribution list which provided regular information about the products. Everything about the Structured Products Department broadcasted to the brokers that structured products were the favored product of the firm. In fact, Jamie joined AGLV because Jamie believed AGLV, with its longstanding reputation of integrity, would grow its Structured Products Department in a careful and balanced way.

As far as sharing "Internal Use Only" documents, the only documents Jamie shared with clients were the marketing summaries that the Structured Products Department had made available to the brokers. The "Internal Use Only" documents had the same basic information as the marketing materials which were being made available to the clients; they just didn't have all of the additional disclosures. There was no confidential information in the documents, and there was no harm to the firm by Jamie sharing the documents.

Jamie is especially outraged because Jamie kept asking about the soundness of CEKK's structured products. Each time, AGLV gave assurances that CEKK's structured products were a sound investment. Jamie needed more quality information during this precipitous time to adequately advise (his)(her) clients and AGLV failed to provide that information. Jamie has a strong suspicion that AGLV knew what was going on with CEKK, especially given Shannon's connections with CEKK. After the firm lifted its suspension of the CEKK structured product sales, Jamie believed AGLV had done its homework. After all, it had the ability to demand information from CEKK. It was a major player in the field, and sold a large amount of CEKK's structured products. Surely, it could have gotten more information from CEKK than what was publically available. Jamie assumed the information (s)he got

from AGLV was complete and accurate, and that (s)he could rely on it. What additional due diligence was Jamie supposed to do?

Adding further insult on top of an already bad injury, Jamie had no involvement in determining the settlements with the aggrieved clients who lost money on CEKK's structured products. AGLV decided to settle after it fired Jamie. It was their business decision. Jamie did nothing wrong. When the legal department received the initial complaints, it called Jamie to discuss the complaints. Jamie conveyed to the legal department information about both the initial recommendations (s)he made to (his)(her) clients and the information Jamie had conveyed to clients in March 2015 after CEKK announced its losses. The only information Jamie conveyed to clients in March 2015 was the information Jamie received from Shannon that AGLV saw no material risk in the CEKK structured products. At that point, the legal department denied the complaints.

From Jamie's perspective, the fact that AGLV decided to pay is proof of its culpability. Jamie is aware that AGLV settled with a number of other brokers' clients who had suffered losses because of CEKK's bankruptcy. Jamie has spoken to other brokers, whose clients also received settlements. AGLV did not seek indemnification from those brokers. Why is AGLV only going after Jamie for indemnification?

Jamie appreciates that AGLV believes it has all the power in this case against (him)(her). Is it mistaken! Jamie has the power of publicity. There is continued interest about educating the public about how financial firms like AGLV are scapegoating innocent brokers when company-endorsed products fail.

FINRA DISPUTE RESOLUTION

-----X	
In the Matter of the Arbitration Between:	:
	:
AGLV FINANCIAL SERVICES, INC.	:
Claimant,	:
	:
vs.	:
	:
JAMIE DIXON	:
Respondent.	:
-----X	

FINRA Case No. 16-012345
Statement of Claim

This Statement of Claim is filed on behalf of Claimant, AGLV Financial Services, Inc. (“AGLV”), a FINRA member, against Respondent, Jamie Dixon, an associated person. This claim is filed pursuant to Rule 13200 of the FINRA Code of Arbitration Procedure as a controversy between a member and an associated person. AGLV seeks to recover \$337,500 in damages.

On June 1, 2004, Jamie signed an employment agreement with AGLV (the “Agreement”). A copy of the Agreement is attached as Exhibit A. The Agreement contained an Indemnification Clause, pursuant to which Jamie agreed to indemnify AGLV for any “losses, claims, damages, liabilities, costs, and expenses, including attorneys’ fees, relating to or arising out of any customer complaint, arbitration claim or lawsuit resulting from the action or inaction of [Jamie] whether settled by AGLV or because of an adverse award or judgment.” On October 29, 2015, Jamie was terminated from AGLV.

In September 2015, five of Jamie’s clients filed complaints with AGLV related to CEKK Structured Products (the “Structured Products”) which had been previously recommended to the clients by Jamie. CEKK had declared bankruptcy in June 2015, and the Structured Products had lost all of their value. In total, the five clients lost \$750,000. In November 2015, AGLV entered into settlements with the five clients, paying the clients a total of \$450,000. Each client was paid a total of 60% of the losses they suffered from the CEKK bankruptcy.

On November 24, 2015, AGLV sent Jamie a letter, demanding that Jamie indemnify AGLV, pursuant to the terms of the Agreement, for 75% of the settlement

amounts, for a total of \$337,500. A copy of the letter is attached as Exhibit B. AGLV determined that the client complaints resulted from Jamie's action of recommending that the clients invest in the Structured Products initially, and Jamie failed to recommend that the clients reduce or eliminate their holdings following the initial warnings that CEKK was having financial difficulties. Additionally, Jamie was involved in the initiation of the client complaints, and the complaints were a direct result of Jamie's actions with respect to encouraging each client to complain.

RELIEF REQUESTED

Based upon the foregoing, AGLV requests an award against Respondent Dixon for compensatory damages in the amount of \$337,500, and costs and attorneys' fees associated with the filing of this arbitration.

AGLV FINANCIAL SERVICES, INC.

Employment Agreement

This agreement (the "Agreement") is made between AGLV Financial Services, Inc. ("AGLV") and Jamie Dixon (the "Advisor"). AGLV and Broker agree as follows:

1. Employment At Will and Termination

Nothing in this Agreement is a promise of employment for a fixed term. Employment is at-will and may be terminated by either party, for any reason or for no reason, at any time, with or without notice, and with or without cause.

2. Licensing Requirements

Broker acknowledges that employment is contingent upon compliance with applicable regulatory and state registration and continuing education requirements. Broker must maintain the Series 7 and 63 licenses.

3. Compliance Duties

Broker shall become familiar with and abide by all applicable AGLV procedures and policies. Broker shall become familiar with and abide by the rules, regulations and policies of the Financial Industry Regulatory Authority (FINRA), and any other self-regulatory organization of which AGLV is a member. Broker shall also become familiar with and abide by any applicable state and federal securities laws and regulations.

Broker agrees to cooperate with any inquiry that AGLV shall make with respect to Broker's activities as an AGLV employee or with respect to AGLV business.

4. Confidential Information

Broker shall have access to information that is considered the confidential property of AGLV. This information shall include: (1) customer account information; (2) training materials; (3) business or marketing plans; (4) research marked "for internal use only;" and (5) other information or materials subject to intellectual property protections.

Broker may use Confidential Information only in the ordinary course of his or her activities as an AGLV broker and shall otherwise keep all such information confidential during and after his or her employment with AGLV.

5. Indemnification

Broker shall indemnify and hold harmless AGLV to the fullest extent permitted by law against all losses, claims, damages, liabilities, costs, and expenses, including attorneys' fees, related to or arising out of:

- (a) Any breach of this Agreement by Broker;
- (b) Any violation by Broker of AGLV policies or procedures or any applicable law, including but not limited to, the applicable rules of FINRA;
- (c) Any errors Broker makes in placing or handling orders for or on behalf of AGLV clients; and
- (d) Any customer complaint, arbitration claim or lawsuit resulting from the action or inaction of Broker whether settled by AGLV or because of an adverse award or judgment.

6. Arbitration

All disputes arising out of or relating to Broker's employment with AGLV shall be resolved by arbitration before FINRA in accordance with the rules of FINRA, and judgment upon an award issued by the arbitrator(s) may be entered in any court having jurisdiction. Nothing in this paragraph precludes the parties, if both consent, from attempting to resolve any dispute through negotiation and/or mediation.

7. Waiver

Failure by AGLV to enforce a breach of any covenant of this Agreement will not constitute a waiver of AGLV to enforce any other breach of the same or any other covenant.

8. Severability

If any provision or portion of this Agreement shall be deemed invalid or unenforceable to any extent by a court of competent jurisdiction, an arbitrator, and arbitration panel, or a regulatory body, the remainder of the Agreement will remain in full force and effect.

9. Entire Agreement

This writing constitutes the entire agreement between the parties. This Agreement may only be modified or amended in writing signed by both Broker and AGLV.

Broker:

AGLV:

Jamie Dixon

Signature: Jamie Dixon

June 1, 2004

Date

Steven Baden

Steven Baden
Branch Manager

June 1, 2004

Date

AGLV FINANCIAL SERVICES, INC.

November 24, 2015

Jamie Dixon
123 Main Street
Old York City, Old York 11441

Dear Jamie:

As you are aware, a number of your clients filed complaints with the firm related to CEKK Structured Products, products which you had recommended to these clients. The clients were unhappy with the information received about the products, and felt they did not receive the appropriate level of customer service. AGLV has decided that it was appropriate to enter into settlements with several of these clients.

As of the date of this letter, AGLV has paid a total of \$450,000 to these clients in settlements relating to complaints arising out of the sales of CEKK Structured Products. Pursuant to the terms of the Employment Agreement you signed when you were first hired by AGLV on June 1, 2004, AGLV seeks partial indemnification from you for these settlements. AGLV demands repayment of 75% of the settlement amounts, or \$337,500. AGLV requests that this sum be paid within 10 days of your receipt of this letter.

If you have any questions, or if you would like a copy of your Employment Agreement, please feel free to contact the undersigned. If we do not hear back from you within this time period, we will file an arbitration, pursuant to the terms of the Employment Agreement, seeking costs and attorneys' fees.

Very Truly Yours,

Parker Ashley

Parker Ashley

FINRA DISPUTE RESOLUTION

-----X	
In the Matter of the Arbitration Between:	:
	:
AGLV FINANCIAL SERVICES, INC.	:
Claimant/Counter-Respondent,	:
	:
vs.	:
	:
JAMIE DIXON	:
Respondent/Counter-Claimant.	:
-----X	

FINRA Case No. 16-012345
Statement of Answer
and Counterclaims

This Statement of Answer and Counterclaims is filed on behalf of Respondent, Jamie Dixon, in response to the Statement of Claim filed on behalf of AGLV Financial Services, Inc.

AGLV is not entitled to contribution for payments it made to clients to settle complaints which were premised on the misconduct of AGLV. Jamie agrees that several clients filed complaints in September 2015 related to CEKK Structured Products and that these products had been previously recommended to the clients by Jamie. Jamie also agrees that CEKK had declared bankruptcy in June 2015, and the Structured Products had lost all of their value. The five clients at issue in AGLV’s Statement of Claim lost a total of \$750,000. However, these losses were not the result of anything Jamie did or did not do.

When the clients initially complained in September 2015, to the best of Jamie’s knowledge, the complaints were premised on the fact that AGLV had not performed adequate due diligence as to the financial stability of the issuer of the Structured Products, CEKK. Further, AGLV had hired Kelsey Shannon to head the Structured Products Department. Shannon had previously been employed by CEKK. Shannon was responsible for overseeing the due diligence of the CEKK Structured Products as well as AGLV’s sales and training efforts with respect to Structured Products. The clients questioned the independence of the AGLV Structured Products Department; however, the clients never raised any complaints regarding Jamie’s actions or inaction. There were never any complaints raised as to the suitability of the initial recommendations. Further, as these were non-discretionary accounts, there were no on-going duties to make any further recommendations. To the extent any affirmative recommendations

were made to hold any of the Structured Products, no client complained that any such recommendation was unsuitable.

Accordingly, AGLV is not entitled to indemnification pursuant to the terms of the Employment Agreement. AGLV has not and cannot meet its burden of proof that any complaints resulted from the action or inaction of Jamie.

Moreover, AGLV chose to settle without any input from Jamie. It would be inequitable to require Jamie to contribute to those settlements without having had any ability to defend the assertions made or to determine what a reasonable settlement amount would have been.

Counterclaims

On October 29, 2015, AGLV terminated Jamie. Jamie had been planning on resigning the following day; however, once the firm learned Jamie would be leaving, it fired (him)(her). Within a week, Jamie received the Form U5, which listed the reason for termination. It stated: "Discharged" under the Reason for Termination and the explanation for termination listed was, "Failure to follow firm policies." This explanation for termination is publicly available on Jamie's BrokerCheck.

Jamie was never told that there were any policies which were not followed. The true reason for termination was retaliation for Jamie speaking with clients about the circumstances surrounding CEKK's bankruptcy and what information AGLV may have had. There were no firm policies prohibiting these conversations. Further, the firm terminated Jamie in anticipation of Jamie's resignation, because if Jamie resigned it would not be able to list a reason for termination on the Form U5.

Defamation

AGLV committed defamation when it listed a false Reason for Termination and a false explanation for termination on Jamie's Form U5. AGLV knew this information would be available publicly, to both Jamie's current clients and to prospective clients.

Additionally, if Jamie wishes to change employers, this information will be available to any prospective employers.

The false termination information is injurious to Jamie and should be expunged from Jamie's Central Registration Depository (CRD) records. The reason for termination should be replaced with "Voluntary."

Breach of FINRA Rule 2010: Standards of Commercial Honor and Principles of Trade

FINRA Rule 2010 provides that "A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." Through the conduct outlined above, AGLV violated this basic tenet of business conduct.

Jamie's income for December 2015 and January 2016 declined 25% from the same time the prior year because of AGLV's conduct. In December 2014 and January 2015, Jamie earned \$80,000 each month. In fact, throughout 2014 and the first six months of 2015, Jamie averaged \$80,000 per month. Jamie's income from July 2015 through January 2016 was as follows:

July 2015:	\$50,000
August 2015:	\$70,000
September 2015	\$72,000
October 2015	\$75,000
November 2015	\$50,000
December 2015	\$62,000
January 2016	\$58,000

Jamie's income declined in July 2015 due to CEKK's bankruptcy and the amount of time Jamie spent dealing with client concerns surrounding the bankruptcy. Jamie's business substantially recovered over the following three months. In November 2015, following Jamie's termination, Jamie transitioned to (his)(her) new firm. During the transition, Jamie's income declined while waiting for client accounts to transfer to the new firm. By December 2015, a substantial number of the accounts had transferred, however,

Jamie was left explaining why AGLV had said (s)he was terminated. It is unclear how many client relationships have been affected by the false termination information. As a result of AGLV's actions, Jamie's reputation with (his)(her) clients was damaged.

RELIEF REQUESTED

Based upon the foregoing, Jamie Dixon requests that the Statement of Claim be dismissed in its entirety, and requests an award on (his)(her) Counterclaims against Counter-Respondent AGLV Financial Services, Inc. for compensatory damages in the amount of no less than \$40,000, and costs and attorneys' fees associated with the filing of this arbitration. Additionally, Jamie requests that (his)(her) U5 for AGLV be expunged to remove "Discharged" under the Reason for Termination and replaced with "Voluntary," and the explanation for termination, "Failure to follow firm policies," also be expunged.

FINRA DISPUTE RESOLUTION

-----X		
In the Matter of the Arbitration Between:	:	
	:	
AGLV FINANCIAL SERVICES, INC.	:	
Claimant/Counter-Respondent,	:	FINRA Case No. 16-012345
	:	
vs.	:	Statement of Answer
	:	to Respondent's Counterclaims
JAMIE DIXON	:	
Respondent/Counter-Claimant.	:	
-----X		

This Statement of Answer to Respondent's Counterclaims is filed on behalf of AGLV Financial Services, Inc.

AGLV denies all allegations set forth in the Counterclaims.

AGLV has an obligation to file an accurate and truthful Form U5. The information contained on Jamie's Form U5 was accurate at the time the form was filed. It therefore cannot be defamatory.

Jamie disclosed confidential information about AGLV's business practices to AGLV clients. Upon information and belief, Jamie shared research information which was intended to be for internal use only, with clients. Additionally, Jamie encouraged clients to file complaints against the firm, which violated (his)(her) duty of loyalty to the firm. At the time the complaints were made, upon information and belief, Jamie had already begun negotiations to move brokerage firms. As there were multiple internal policies which were violated, and as Jamie was terminated, both the Reason for Termination and the explanation provided on the Form U5 were accurate.

Any loss in business relating from Jamie's termination and subsequent move to (his)(her) new firm, were the result of Jamie's own actions and not the result of any wrongdoing on the part of AGLV.

Accordingly, AGLV requests that Jamie Dixon's Counterclaims be dismissed in their entirety.

Attachment 4

FINRA ARBITRATION Submission Agreement

Claimant(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)
AGLV Financial Services, Inc.

and

Name(s) of Respondent(s)
Jamie Dixon

1. The undersigned parties ("parties") hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

AGLV Financial Services, Inc.

Claimant Name (please print)

Parker Ashley

Chief Compliance Officer

January 11, 2016

Claimant's Signature

Date

State capacity if other than individual (*e.g.*, executor, trustee or corporate officer)

FINRA ARBITRATION Submission Agreement

Respondent(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)
AGLV Financial Services, Inc.

and

Name(s) of Respondent(s)
Jamie Dixon

1. The undersigned parties (“parties”) hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

Jamie Dixon

Respondent Name (please print)

Jamie Dixon

Respondent’s Signature

February 19, 2016

Date

State capacity if other than individual (*e.g.*, executor, trustee or corporate officer)