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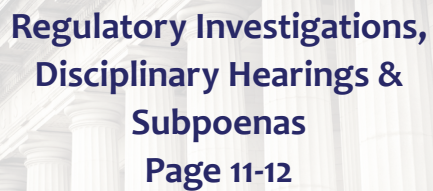
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## A Message From The Founder: Jenice L. Malecki, Esq.

Friends,

Malecki Law was founded in 1999, just before the infamous stock market “Tech Wreck”, and after eight years working with securities industry law firms. I started Malecki Law with a vision that the securities laws should be geared towards creating a market free of manipulation, for both investors and industry professionals. Working in mandatory securities arbitration from its inception, as well as on class action securities fraud cases in state and Federal courts, at the United States Securities and Exchange Commission (SEC ) and Financial Industry Regulatory Authority (FINRA) in enforcement matters, by visiting Congress, and as a member of FINRA’s National Arbitration and Mediation Committee advising FINRA’s Board of Directors, I have helped define and create the securities laws as they exist today. There is always more work to do.

Malecki Law is uniquely focused on securities law, commercial litigation, securities related employment, regulatory and whistleblowing matters. We fight for the rights of our clients against major entities that want to control the story and the markets, to the detriment of both investors and industry professionals.

Our results are exceptional. We have succeeded in obtaining multi-million dollar awards and settlements in FINRA arbitrations, litigations, business and employment disputes, tax shelter fraud cases, and Ponzi scheme cases. In the last few years alone, we represented high profile investors, industry professionals, securities industry whistleblowers and subpoenaed witnesses in prominent securities industry cases before the SEC, Department of Justice (DOJ), United States Attorney’s Office, FINRA, and the New York District Attorney’s office.

We focus on what is important to win, either by a trial of fact or with a good settlement. We bring passion and discipline to get the job done right. We leave no stone unturned in your case. You receive a very personalized experience at Malecki Law, where we strive to earn and maintain your trust and confidence in us.

Thank you for your continued support.

Best Regards,

**Jenice L. Malecki, Esq.**



# About Malecki Law: Mission & Vision

**Malecki Law is a boutique securities, investment and commercial law practice that represents clients internationally and within the United States.**

Since the times leading up to the Great Depression, some who ran the large banks and brokerage houses took advantage of public investors and securities industry employees. We are now again in an age of the modern robber-barron as the income and opportunity gap widens. Investors and industry professionals need a strong voice, like ours. Our goal is to level the playing field.

Our attorneys have over **35 years of collective experience** and have been appointed to, and continue to serve in, prominent leadership positions at FINRA and within local and national associations of lawyers, including FINRA'S NAMC, Public Investors Arbitration Bar Association (PIABA), the PIABA Foundation, and others. Through these positions, our team fights for the rights of investors and securities industry employees. We have advocated for our clients in Congress and in the media, as well as through the amicus briefs that we have filed with multiple state and federal courts. We have filed many official rule comment letters submitted to the SEC, and have been mentioned as a contributing factor in the SEC's rule releases. Our attorneys regularly speak at industry conferences where we teach other practicing lawyers, and actively work to shape the future generation of lawyers through lecturing at prominent law schools.



We regularly fight major institutions without conflicts faced by large law firms and build upon our proven record for achieving large settlements, favorable awards/verdicts, expungements, and representing prominent clientele, including:

- **\$7.2+ million in settlements in a real estate based Ponzi scheme for average middle-class investors**
- **\$2.5 million settlement in municipal securities industry compensation and sexual harassment claim in an employment industry dispute.**
- **\$1.15 Million awarded in an unsuitable investments case for former professional baseball player, pitcher Rodney Beck, in FINRA arbitration**
- **Complete dismissal of all claims in a \$50 million suit against, our client, a Chinese investor by a hedge fund in a complex structured finance transaction in a New York State court case**

**Malecki Law works on hourly, contingency or blended retainers.**

## Affiliations & Recognitions:



# Our Attorneys



**Jenice L. Malecki** is a well-known securities attorney and the founder of Malecki Law. She is a successful and aggressive litigator with a uniquely diverse background representing thousands of investors and industry professionals. Ms. Malecki's experience as a New York securities attorney began in class action litigation, working on the famed class action case **In re Crazy Eddie**. Throughout the 1990's she represented numerous broker dealers in "boiler room" stock fraud cases and the progeny of the real-life **Wolf of Wall Street**. She is currently the Vice-President on the board of the PIABA Foundation, with a mission to educate investors, and has been on the board and a member of PIABA (Public Investor Arbitration Bar Association). She has been a FINRA arbitrator and chairperson, and is a trained mediator. In 2015, she was appointed to and continues to serve on **FINRA's National Arbitration and Mediation Committee (NAMC)**, which advises FINRA's Board of Directors.

In addition to her exceptional results as a lawyer, Ms. Malecki is also a consulting expert, hired by other securities litigators, such as *Ontonimo (OMO) Limited vs. BNP Paribas Securities Corp.* (\$16.6 million FINRA award in 2015). She has been qualified at FINRA as a testifying expert with successful results and is a trained mediator. She has appeared on national television on several occasions discussing securities issues and has received numerous awards. She frequently speaks at the Securities Experts Roundtable, at the Practising Law Institute, the New York City Bar Association, the New York County Lawyers Association, and PIABA's year-end conference.

**Our attorneys are licensed to practice in New York, New Jersey, Massachusetts, and Washington D.C., but are frequently admitted in other jurisdictions pro hac vice to serve on cases where we have the right experience.**



**Adam M. Nicolazzo** has helped recover millions of dollars in cases stemming from Ponzi and promissory note selling away schemes, and unsuitable and fraudulent investments. He has successfully represented numerous industry participants in employment disputes and obtained "no action" letters from FINRA Enforcement. Adam is proud to actively advocate for fair securities markets and increased

disclosure for public investors. He is Co-Chairman of PIABA's SRO Committee, which frequently comments on securities industry rule proposals, and has advised state and Federal Courts regarding securities laws and industry practices by writing "friend of the Court" briefs as an active member of PIABA's Amicus Committee, for which he has received several commendations.



**Robert M. Van De Veire** has been with Malecki Law since 2009. With a degree in Economics/ Finance and having worked in a branch of a large national broker-dealer, Bob draws upon his experience outside his legal training to best represent his clients. Bob has been recognized for his accomplishments as an attorney, having been named a Rising Star in Securities

Litigation by SuperLawyers in both 2015 and 2016. He also serves as co-chair of New York County Lawyers Association's NYCLA's Securities and Exchanges Committee. He has been interviewed on national news, providing commentary on issues related to arbitration, and regularly authors articles in professional journals and publications.

## Investor Arbitration & Mediation



**We represent investors in arbitrations, litigations and mediations. Our team has successfully recovered tens of millions of dollars in securities industry settlements and awards for investors through effective arbitrations and mediations.**

We zealously prosecute investor rights. Our clients include prominent sports figures, Fortune 500 entrepreneurs and institutional investors to more vulnerable groups like retirees and elderly widows, who lost their nest eggs and the safety of their retirement income as a result of fraudulent and/or unsuitable advice from investment advisors.

**Lawyers at Malecki Law have been on both sides of the fence, so we know a brokerage firm's weak spots.**

Our lawyers have experience and success bringing actions at FINRA, the SEC and other self-regulatory forums, as well as private arbitration forums like JAMS Endispute and the American Arbitration Association (AAA) for individuals and groups including:

- Individual Investors
- Institutional and Foreign Investors
- Hedge Funds and its Participants
- Foundations
- Endowments
- Municipalities
- Other Institutions

### The most common investor claims include:

- Common Law Fraud (Scams), Misrepresentations and Omissions under Federal Securities Laws
- Unsuitability
- Overconcentration
- Elder Fraud and Affinity Fraud
- Churning / Overtrading
- Unauthorized Trading
- Conversion

### Recent significant representations:

- Recovered over **\$7.2 Million** in settlements for victims of a real estate based Ponzi scheme after a series of FINRA arbitration filings
- Recovered **\$2 Million** in settlement for a group of high net worth hedge fund investors during a FINRA arbitration
- FINRA arbitration representation for a retired entrepreneur in an over-concentration case of over **\$4 Million** in losses in Municipal bonds against a major financial institution
- Recovered **\$3.9 Million** for improperly recommended tax shelter fraud investments in New York State Court case

## Looking Back & Ahead

FINRA continues to be the largest dispute resolution forum in the securities industry and they are making the treatment of senior and other vulnerable investors a key priority in 2016. In general there has been a downward trend in case filings, however it is anticipated that market corrections will bring more cases to light. Arbitration continues to be a preferred method for resolving securities disputes, because of the multitude of benefits the process entails.





# White-collar crooks

## Dodd-Frank Whistleblower Representation

### We provide first-tier representation in Dodd-Frank whistleblower claims.

Before the collapse of the housing market, in the wake of the Sarbanes-Oxley Act, and prior to and after the Dodd-Frank Act, Ms. Malecki represented multiple prominent whistleblowers, including **Arturo Cifuentes** and **Eric Kolchinsky** amongst others.

We represent a number of **anonymous** Dodd-Frank whistleblowers who tipped off the SEC with original information leading to and assisting large SEC investigations. We often sit down at the table with our clients and the SEC, the DOJ and the U.S. Attorney.

One of the most important features of Dodd-Frank is the award system for whistleblowers who provide original information and the anti-retaliatory provision. **Whistleblowers can remain anonymous.** They need skilled representation otherwise they might risk waiving away their rights to claim the award.

**With in-depth knowledge of the securities industry, from inside out, we will get your matter noticed.**

### Recent significant representations:

- Recovered **\$2 Million** for a Whistleblowing trader against former employer in FINRA arbitrated collateral debt obligation (CDO)
- Well-known financial analyst in the CDO market at the Department of Labor under Sarbanes-Oxley for **refusal to certify analyst report** as edited by brokerage firm issuer
- Rating agency whistleblower under Sarbanes-Oxley relating to the **2008 financial crisis pay-to-play ratings** in Federal court case in Southern District New York
- Institutional broker relating to **currency trading manipulation** involving major international inter-dealer broker-dealer under Dodd Frank
- Whistleblower in **10(b)-5 fraud case** against major international brokerage firm relating to PR Close-End bond funds
- Whistleblower in **Dodd-Frank** international Ponzi scheme case

### Looking Back & Ahead

The SEC has awarded more than \$85 million to 32 whistleblowers since the inception of the program in 2011. It is our opinion that as the public awareness of whistleblower rewards and awards spread there will continue to be more substantial tips and claims. The Office of the Whistleblower (OWB) continues its efforts to make whistleblowers feel safe and the anti-retaliatory protection encourages individuals to come forward.

## Commercial Litigation, Appeals & Business Disputes



**Malecki Law is skilled, efficient and effective in litigation, in arbitration and on appeal, from either side of the table, representing disputing parties.**

We represent claimants and respondents in litigation, arbitration, appeal and mediation. We see both sides of the case, strengths and weaknesses. **Our experience helps us look forward towards end goals and anticipate our adversary's moves.**

Our lawyers have the skills, technology and resources to successfully represent clients in litigation matters related to banking, securities, hedge funds, venture capital, complex financing structures, private equity deals, contracts, partnership disputes, tax fraud, defective securities products, employment issues and more.

With our extensive background in fraud, regulation and securities disclosure requirements, as well as a solid understanding of business, judicial and alternative dispute resolution (ADR) systems, we bring unique insights into our commercial litigation practice.

**We know when and how to exert pressure on our adversaries to get the job done.**

### Our practice is focused on:

- Complex Commercial Litigation
- State and Federal Court Representation to Parties and Witnesses
- Arbitration Representation to Parties and Witnesses
- Subpoena Compliance: Civil (New York and Federal Courts) and Regulatory/ Self-Regulatory SEC/FINRA
- Mediation of Commercial Disputes
- Transactional and Breach of Contract Disputes
- Business “Divorce” / Partnership Dissolution
- Litigation with Service Providers, Professionals, Clients, Competitors, Employees and Vendors
- Fraudulent Inducement
- Fraud and Misrepresentation
- Breach of non-disclosure (“NDA”), non-compete and licensing agreement
- Unjust Enrichment, Conversion and Theft
- Accounting Suits and Declaratory Judgements
- Deceptive Business Practices
- Declaratory Judgments
- Officer and Director Liability
- Defamation and Libel Disputes
- Corporate and Partnership Disputes
- SEC Receivership proceedings
- RICO and Fraud claims

### Looking Back & Ahead

Malecki Law represents commercial litigation clients both nationally and internationally. With the advances in technology and communication, the world is getting smaller and more connected, increasing private investments in foreign countries.





## Recent significant representations:

- Won a complete dismissal for a Chinese company's founder and director relating to the company's **\$50 million financing dispute with a hedge fund**
- Recovered substantial settlement for a brokerage firm against an energy company in **contractual disputes over the terms of a Private Placement Engagement Letter involving \$9 million** in alleged breach over financing an oil and gas deal in Federal Court Southern District New York
- **\$1.9 million** settlement for an Italian national against major financial institution for **failing to remove restrictive legend** on stock in Federal Southern District New York Court
- Won a complete dismissal for a brokerage firm in a case brought by **consultants for alleged breach of contract** and related claims in New York State Supreme Court
- Successfully defended a Serbian entity in a **jurisdictional dispute** in New York State Supreme Court
- **Unwound a technology firm** organized by three individuals who tried to squeeze out a minority partner
- Issuer defendants in **dispute over a secured convertible debenture purchase agreement** in a private offering in Federal Court, Southern District New York
- **Payment processing company in a commercial dispute** brought by former business associates involving allegations of fraud, conversion and related claims in New York Supreme Court
- Consultant in JAMS arbitration involving issues of authorization for a consulting agreement and **aiding and abetting breach of a fiduciary duty** by a board of directors of a public company
- Technology patent holder in dispute over an online bidding system and conversion of securities in New York State Supreme Court
- Inventor in alleged **breach of licensing agreement** and non-disclosure agreement with joint venture partner
- Residential cooperative apartment corporation against a managing agent for **fraud and embezzlement** in New York State Supreme Court
- Represented Comic Book Company in conversion of **stolen artwork** and recovered stolen artwork in question in New York State Supreme Court
- Represented Hong Kong based **dating website in technology related dispute** with service provider for platform in Federal Court, Southern District New York

## Looking Back & Ahead

As international commerce increases, there are more international disputes and case filings in seemingly everyday matters. Businesses and individuals are increasingly choosing New York as a destination, using its courts and arbitration forums to resolve these conflicts, a forum Malecki Law knows very well.

## Securities Employment Disputes



**Helping professionals transition within the workforce requires skilled planning. The most frequently filed FINRA claims by industry professionals are compensation denial, wrongful termination, breach of contract and statutory defamation.**

We help clients with Form U4/ U5 disclosure issues, promissory notes, non-compete agreements, and other negotiations brokers have when exiting a firm, including industry professionals who are investigated by regulatory, self-regulatory and state examiners.

**As FINRA is funded mainly by Wall Street, the odds can be stacked in favor of the brokerage firms.** Therefore, experienced securities attorneys are necessary to secure positive outcomes for clients.

We represent financial industry professionals, brokers, traders, analysts, corporate executives, advisors, specialists, floor brokers, structured finance professionals, quants, company founders, partners in hedge funds, LLCs and other partnerships and corporate forms.

**From compensation and termination disputes to restrictive covenants and severance negotiations, we have your back.**

### **Matters of negotiation or dispute include:**

- U4/U5 and Registered Investment Advisor (RIA) Reporting and Expungement
- Negotiation of High Level Executive Compensation Packages, Non-Competition and Non-Solicitation Agreements
- Restrictive Covenants including stock options and grants, signing bonuses, guarantees, compensation formulas for “good cause”, termination provisions, and other unique issues
- Promissory Note Arbitration and Litigation Defense (“sign-on bonuses”)
- Severance Package Termination Agreements
- Compensation, Bonus and Commission Disputes
- Disclosing Outside Business Activity
- “The Protocol” in transitions between brokerage firms
- Indemnification and representation in trailing litigation and arbitration
- Discrimination and/or Harassment (Gender, Age, Race, Religion, Sexual Orientation)
- Employment Contract Negotiation and Drafting
- Drafting and Negotiation of Employment Policies

### *Looking Back & Ahead*

Employees in the securities industry are incentivized by promissory notes and large annual bonuses, which often lead to compensation disputes, long terms of employment, non-compete agreements and other situations ripe for conflict that are usually resolved in FINRA arbitrations.



## Successful representation and counsel:

- Secured a **\$2 Million** settlement in municipal securities industry compensation and sexual harassment claim in Federal Court Southern District NY
- Secured **\$500,000** in settlement for a Sarbanes-Oxley Analyst Whistleblower Employee
- Complete **expungement** for a broker against a major investment bank, including the amount of attorney fees in FINRA arbitration
- Series 7 broker in FINRA arbitration and **Form U5** issues relating to conduct by his partner, **outside business activity**, where he was improperly named, i.e., the wrong broker was sued
- **Investment banker** and several boards of directors working abroad in suit against major international wirehouse for unjust enrichment, breach of contract, false statements on Form U5 and failure to reimburse expenses in FINRA arbitration
- **Compliance director** against brokerage firm relating to employment and whistleblowing dispute
- Investment banker in **structured and corporate finance agreement**
- Industry professional against major brokerage firm for dispute over corporate referral **compensation and bonus**
- Two groups of brokers in FINRA arbitrations over **allegations of fraud** against the employing broker-dealer for the firm's failure to disclose the true nature of proprietary investments the firm issued and marketed to public investors, as well as related issues for compensatory damages and Form U5 expungement in FINRA arbitration
- Independent platform registered representative against **independent platform brokerage** firm for mismarking his Form U5 and theft of client base in FINRA arbitration
- Series 24 supervisor and analyst against major wire house for **disability discrimination** and other related claims in a FINRA arbitration

## Looking Back & Ahead

As the arms-length, at-will employment environment between securities employers and employees seems to increasingly widen, there are more disputes related to wrongful termination, unpaid compensation and Form disclosure U4/ U5 cases.



## Regulatory Investigations, Disciplinary Hearings & Subpoenas



**We offer strategic defense to individuals and entities who are being investigated and charged by FINRA, the SEC, the U.S. Attorney's office, state securities regulators, and other exchanges.**

Malecki Law represents clients at each stage of the regulatory and self-regulatory process — from an informal inquiry, through contested hearings (including on-the-record testimony and the “Wells” process), as well as on appeal.

**Being the subject of a regulatory investigation can be a life-altering experience.** The magnitude of potential penalties may include substantial fines, losing your license, or even criminal charges. An adverse outcome in a regulatory investigation could harm your future employment in other industries, outside the securities industry. Having experienced counsel representing you and protecting your rights may be the key to an outcome in your favor.

**Early intervention by an attorney can avoid mistakes and prolonged proceedings.**

### We assist clients through:

- Obtaining “No-Action Letters” i.e., a complete defense with no reporting on your license
- Negotiation of favorable regulatory settlements to minimize sanctions, generally known as AWCs (Acceptance, Waiver and Consent)
- Fully litigated hearings before regulators, self-regulatory organizations, government agencies, and criminal proceedings
- Formally responding to Regulatory Inquiries, Investigations, Exams and Audits, including On-the-Record (OTR) Interviews, Document and Information Requests, and Subpoenas
- Review and Creation of Compliance / Supervision Directives and Procedure
- Membership and Registration Continuation Proceedings

### Looking Back & Ahead

One of FINRA's top priorities is to advance investor confidence in the securities markets through vigorous enforcement of federal securities laws. In 2016, the Department of Labor has introduced new tougher regulations holding brokers and insurance agents to strict “fiduciary” standards. As the regulations of the securities industry become more demanding, we envision a more thorough scrutiny of securities professionals and the need for regulatory defense and other proceedings.



## Recent significant engagements:

- **No Action** taken in FINRA investigation into alleged fundraising outside business activity and working on a transaction after their license being terminated in violation of FINRA Rules
- **No Action** by SEC for 2 individuals after full investigation and OTR regarding alleged spoofing and layering transactions by trader and assistant
- Obtained **No Action** Letter from FINRA Regulation Enforcement Department for Series 24 Supervisor under investigation for allegedly accepting client funds from an insurance annuity policy
- Obtained **No Action** letter from FINRA for investment professional alleged to have altered Bloomberg screens sent to clients
- Obtained **No Action** in a case involving alleged private securities transaction and outside business activity for a securities broker involving Countrywide and life bonded settlements
- Successfully represented **NYSE floor broker** in fully contested enforcement hearing on front running
- Obtained **No Action** letter for financial professionals in matters involving allegations of embezzlement of client funds with sales assistant
- Successfully obtained **No Action** after Wells submission to FINRA regarding allegedly mismarking order tickets
- **Settlement of Favorable AWC** with FINRA relating to cherry picking and front running by a fund manager
- Negotiated **Favorable AWC settlement** with the SEC for a group of traders for allegedly operating an unregistered broker dealer
- Obtained **No Prosecution** agreement from the SEC for professional trader of U.S. Inflation Trading desk related to alleged misreporting of losses on complex derivatives desk
- Represented subpoenaed party in a SEC investing into **EB-5 funding**
- Represented subpoenaed individuals in SEC investigations involving **Variable Annuity Sales Practices** at a major brokerage firm

## Looking Back & Ahead

SEC's top 3 examination priorities in 2016 include protecting retail investors investing for retirement. According to SEC "Office of Compliance Inspections and Examinations (OCIE) will continue several 2015 initiatives to assess risks to retail investors seeking information, advice and services to help them plan for and live in retirement. It also will undertake examinations to review exchange-traded funds (ETFs) and ETF trading practices, variable annuity recommendations and disclosure, and potential conflicts and risks involving advisers to public pension funds."

# Elder Financial Fraud



Malecki Law continues to make investors aware about securities fraud issues and legal developments. Our attorneys visit community centers, such as Hudson Guild Senior Center to educate members of their Naturally Occurring Retirement Community (NORC) about **Elder Financial Exploitation**. We continue to work towards positive changes in elder law within the securities industry.

In 2015, Jenice Malecki participated in a panel on **Dangers of Diminished Capacity** at the Public Investors Arbitration Bar Association's (PIABA) annual conference and spoke on a panel **The Graying of America** at the Securities Experts Roundtable in 2016. She has also authored an article for the PIABA Journal titled **Protecting Clients with Diminished Capacity In The Securities Industry: It's Tricky**.



Ms. Malecki was interviewed by Bill Singer on baby boomer financial exploitation for a segment on *Wealth Management* called **Case In Point**. She also authored an article for their website titled **What Should Financial Advisors Do To Better Protect Elderly Investors?** She recently appeared on community television, *BronxNet* educating elderly investors about fraud in a segment called **Today's Verdict**.

## Recent significant representations:

- Trust and Estates in FINRA arbitration involving churning and excessive fees in the account of a senior widow who has dementia against major financial institution
- Estate in case of conversion and continued trading in an elderly woman's account after her death in FINRA arbitration against major financial institution
- Elderly widow with Parkinson's disease and 24/7 care in a matter against major financial institution
- Wheelchair bound retired businessman and his wife in FINRA arbitration relating to unsuitable investments and misrepresentation in the sale of brokerage firm's proprietary product
- Retired doctor in Ponzi scheme against brokerage firm
- Hundreds of retirees in cases involving churning, Ponzi scheme, unsuitable investments and fraud





# In The Media, Speakerships & Events

## TV Appearances



Ms. Malecki has frequently appeared as an expert on media outlets such as **Wall Street Journal Live, NBC's Today Show, Fox Business News, CBS Eyewitness News, Bloomberg TV, WealthManagement.com, China TV, EBR TV, Steve Forbes' in-flight radio show**, and several other syndicated and local shows. Her cases are cited in numerous industry publications, including the **Wall Street Journal, New York Magazine, The New York Times, Forbes, Reuters** and **Newsweek**. The Wall Street Journal featured Ms. Malecki in an educational video clip about the arbitration process at FINRA.

In 2014 and 2015, Ms. Malecki visited Washington DC to gain additional support for the **Investor Choice Act of 2013**, currently on the United States House of Representatives Floor. This bill is designed to give investors a choice of going either to arbitration or court to settle their claims.

In the last few years, Ms. Malecki has spoken at the New York State Bar Association, Public Investors Arbitration Bar Association, Practising Law Institute, New York City Bar Association, New York County Lawyers Association and Securities Experts Roundtable on topics ranging from securities arbitration, whistleblowing, and white collar crimes to elder financial frauds and other investment frauds. She has authored numerous articles which have been published in the corresponding journals. She also speaks frequently at Brooklyn Law School, St. John's Law School and New York Law School, educating students about trends and developments in Securities Law.



With her depth of knowledge and breadth of experience, Ms. Malecki was recently qualified by FINRA to be an Expert Witness, and is a trained mediator as well.

## IN THE MEDIA





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