

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Cantor Fitzgerald & Co.

Case Number: 16-03450

vs.

Respondent
Jefferies LLC

Hearing Site: New York, New York

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Member vs. Member

The evidentiary hearing was partly conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Cantor Fitzgerald & Co.: Nirav S. Shah, Esq., Cantor Fitzgerald & Co., New York, New York.

For Respondent Jefferies LLC: Philip C. Korologos, Esq., Boies, Schiller & Flexner LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 22, 2016.

Answer to Counterclaim filed on or about March 27, 2017.

Cantor Fitzgerald & Co. signed the Submission Agreement: November 18, 2016.

Statement of Answer and Counterclaim filed by Respondent on or about March 6, 2017.

Jefferies LLC signed the Submission Agreement: March 6, 2017.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: unfair competition; tortious interference with contract; and permanent injunction.

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Counterclaim, Respondent asserted the following cause of action: tortious interference with business relations.

In the Answer to the Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: compensatory and punitive damages arising out of Respondent's unfair competition and tortious interference with contract in an amount to be determined at hearing, but not less than \$20,000,000.00; attorneys' fees and costs; injunctive relief restraining Respondent from continuing its pattern of unfair competition and tortious interference between Claimant and investment banking professionals; and for such other relief as may be deemed to be appropriate and just.

In the Statement of Answer and Counterclaim, Respondent requested: an award dismissing all claims in the Statement of Claim; attorneys' fees and the costs of defending against Claimant's claims; compensatory damages in an amount to be determined at the hearing, but not less than \$15,000,000.00; punitive damages; attorneys' fees and costs of prosecuting the Counterclaim; and for such other relief as the Panel may deem just and appropriate.

In the Answer to the Counterclaim, Claimant requested for an order striking and dismissing the Counterclaim and for such other relief as the Panel may deem to be appropriate and just.

At the hearing, Claimant withdrew the request for injunctive relief.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

The Panel conducted in-person hearings on January 22, 23, and 28, 2020 and conducted hearings by videoconference on February 17, 22, and 24, 2021.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Respondent's counterclaims are denied in their entirety.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee	=\$ 4,000.00
Counterclaim Filing Fee	=\$ 4,000.00

**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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as parties, Cantor Fitzgerald & Co. and Jefferies LLC are each assessed the following:

Member Surcharge	=\$ 4,025.00
Member Process Fee	=\$ 7,000.00

Postponement Fees

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

March 13-16 and 19-23, 2018, postponement requested by Parties	=\$ 1,500.00
June 4 and 25-28, 2018, postponement requested by Parties	=\$ 1,500.00
April 1-5, 2019, postponement requested by Parties	=\$ 1,500.00
January 21, 2020, postponement requested by Respondent	=\$ 1,500.00
February 18, 2021, postponement requested by Parties	=\$ 1,500.00

Total Postponement Fees	=\$ 7,500.00
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The Panel has assessed \$4,500.00 of the postponement fees to Claimant.

The Panel has assessed \$3,000.00 of the postponement fees to Respondent.

Last-Minute Cancellation Fees

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

January 21, 2020, cancellation requested by Respondent	=\$ 1,800.00
February 18, 2021, cancellation requested by Parties	=\$ 1,800.00

Total Last-Minute Cancellation Fees	=\$ 1,800.00
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The Panel has assessed \$1,800.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$1,800.00 of the last-minute cancellation fees to Respondent.

Discovery-Related Motion Fees

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

Claimant submitted Two (2) discovery-related motions

Respondent submitted One (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 600.00

The Panel has assessed \$300.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$300.00 of the discovery-related motion fees to Respondent.

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 Panel, including a pre-hearing conference with the Panel, which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with a single Arbitrator @ \$450.00/session = \$ 1,800.00

Pre-Hearing Conferences: December 12, 2017 1 session
January 30, 2018 1 session
February 15, 2018 1 session
April 10, 2018 1 session

Seven (7) pre-hearing sessions with the Panel @ \$1,500.00/session = \$ 10,500.00

Pre-Hearing Conferences: May 9, 2017 1 session
February 20, 2018 1 session
March 28, 2019 1 session
January 21, 2020 1 session
February 4, 2020 1 session
March 31, 2020 1 session
October 29, 2020 1 session

Eleven (11) hearing sessions @ \$1500.00/session = \$ 16,500.00

Hearings: January 22, 2020 2 sessions
January 23, 2020 2 sessions
January 28, 2020 2 sessions
February 17, 2020 2 sessions
February 22, 2021 1 session
February 24, 2021 2 sessions

Total Hearing Session Fees = \$ 28,800.00

The Panel has assessed \$15,150.00 of the hearing session fees to Claimant.

The Panel has assessed \$13,650.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Larry H. Irom	-	Non-Public Arbitrator, Presiding Chairperson
John J. Kilkenny	-	Non-Public Arbitrator
Joseph L. Calabrese	-	Non-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

Larry H. Irom

Larry H. Irom
Non-Public Arbitrator, Presiding Chairperson

03/24/2021

Signature Date

John J. Kilkenny

John J. Kilkenny
Non-Public Arbitrator

03/26/2021

Signature Date

Joseph L. Calabrese

Joseph L. Calabrese
Non-Public Arbitrator

03/23/2021

Signature Date

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March 26, 2021

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