

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Turner Edward Bynum

Case Number: 17-02966

vs.

Respondents
Next Financial Group, Inc.
Stephen Anthony Dellelo

Hearing Site: Boston, Massachusetts

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: Customer vs. Member and Associated Person

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Turner Edward Bynum appeared pro se. Claimant was previously represented by Richard M. Gelb, Esq., Gelb & Gelb LLP, Beverly, Massachusetts until on or about December 22, 2020.

For Respondents Next Financial Group, Inc., and Stephen Anthony Dellelo: Steven N. Fuller, Esq., Markun Zusman Freniere Compton LLP, Wellesley, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: November 3, 2017.

Turner Edward Bynum signed the Submission Agreement: October 15, 2017.

Joint Statement of Answer filed by Respondents on or about: January 18, 2018.

Next Financial Group, Inc. signed the Submission Agreement: February 9, 2018.

Stephen Anthony Dellelo signed the Submission Agreement: February 9, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract, negligence, professional liability, breach of fiduciary duty, control person liability, respondeat superior, and negligent supervision.

The causes of action relate to Ridgewood Energy S Fund, LLC; Atel 12, LLC; Atel Growth Capital Fund V; Gemini Opportunity Fund I, LLC; Commonwealth Income & Growth Private Fund IV; G. REIT Liquidating Trust; Reef Global Energy V1; and Atlas America Public #11 Ltd.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested award in an amount to be determined which is at least \$900,000.00, together with interest, costs, and such other and further relief as the Panel may deem just and equitable.

In the Statement of Answer, Respondents requested that: all causes of action be dismissed in their entirety; Claimant take nothing by way of his Statement of Claim; forum fees be assessed against Claimant; an award of costs and expenses; any other relief that the Panel deems just and proper; expungement of this matter from Respondent Stephen Anthony Dellelo's CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 18, 2018, Respondents filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On May 18, 2018, Claimant filed a response not opposing the Motion to Dismiss. On June 6, 2018, Claimant withdrew his claims and exercised his right to pursue his claims in court pursuant to Rule 12206(a) of the Code. By Order dated June 11, 2018, the Panel granted Respondents' Motion to Dismiss upon consent of the Claimant. The Panel retained jurisdiction on Respondents' expungement request until Respondents provide Notice of Final Resolution of the civil claims and either request a hearing on expungement or otherwise terminate their request for expungement. On May 27, 2020, Claimant submitted Notice of Settlement of Claimant's claims against Respondents

On August 7, 2020, Respondent Stephen Anthony Dellelo's filed a Motion for Expungement to which no response was filed.

On September 9, 2020, Respondents requested to proceed with two arbitrators and Claimant agreed on January 25, 2021.

The Panel conducted a recorded hearing by videoconference on March 3, 2021, so the parties could present oral argument and evidence on Stephen Anthony Dellelo's request for expungement.

Claimant participated in the expungement hearing and opposed the request for expungement.

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

AWARD

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

1. Stephen Anthony Dellelo request for expungement of the above-captioned arbitration (Occurrence Number 1960980) from his registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein are denied.

FEES

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

Filing Fees

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

| | |
|--------------------------|--------------|
| Initial Claim Filing Fee | =\$ 1,725.00 |
|--------------------------|--------------|

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Next Financial Group, Inc. is assessed the following:

| | |
|--------------------|--------------|
| Member Surcharge | =\$ 2,475.00 |
| Member Process Fee | =\$ 5,075.00 |

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|--|--------------|
| Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session | =\$ 2,600.00 |
| Pre-Hearing Conferences: March 26, 2018 | 1 session |
| February 1, 2021 | 1 session |

| | |
|---|--------------|
| One (1) hearing session on expungement request @ \$1,300.00/session | =\$ 1,300.00 |
| Hearing: March 3, 2021 | 1 session |

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|-----------------------------------|---------------------|
| Total Hearing Session Fees | =\$ 3,900.00 |
|-----------------------------------|---------------------|

The Panel has assessed \$650.00 of the hearing session fees to Claimant.

The Panel has assessed \$650.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,300.00 hearing session fees to Respondent Stephen Anthony Dellelo.

The Panel has assessed \$1,300.00 hearing session fees for the expungement to Respondent Stephen Anthony Dellelo.

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

ARBITRATION PANEL

| | | |
|---------------|---|--|
| Gene M. Bauer | - | Public Arbitrator, Presiding Chairperson |
| Amy Lampert | - | Non-Public Arbitrator |

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Gene M. Bauer

Gene M. Bauer
Public Arbitrator, Presiding Chairperson

03/10/2021

Signature Date

Amy Lampert

Amy Lampert
Non-Public Arbitrator

03/11/2021

Signature Date

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March 11, 2021

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