

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jefferies LLC

Case Number: 18-00554

vs.

Respondent
Michael David Kamras

Hearing Site: Los Angeles, California

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. Associated Person

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Jefferies LLC (“Claimant”): Andrew J. Shapren, Esq., Robert J. Fitzgerald, Esq., and Jason E. Murtagh, Esq., Buchanan Ingersoll & Rooney PC, Philadelphia, Pennsylvania.

For Respondent Michael David Kamras (“Respondent”): David Jacobs, Esq., Ronald Green, Esq., and Edward J. Loya, Jr. Esq., Epstein Becker & Green, P.C., Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: February 9, 2018.

Answer to Counterclaim filed on or about: May 2, 2018.

Claimant signed the Submission Agreement: February 9, 2018.

Statement of Answer and Counterclaim filed by Respondent on or about: April 12, 2018.

Respondent signed the Submission Agreement: April 12, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a cause of action for breach of contract. The cause of action relates to alleged liquidated damages Respondent owed to Claimant pursuant to a January 2, 2017 Agreement (“Agreement”).

Unless specifically admitted 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 causes of action: violation of FINRA Rule 2010; violation of Cal. Bus. & Prof. Code section 17200 - based on an unlawful business practice in violation of Cal. Bus. & Prof. Code section 16600; violation of Cal. Bus. & Prof. Code section 17200; and illegal contract. The causes of action relate to Claimant's recruitment tactics and enforceability of the Agreement.

Unless specifically admitted in the Answer to the Counterclaim, Claimant denied the allegations made in Respondent's Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Liquidated damages pursuant to the Agreement in the amount of \$2,000,000.00;
2. Actual compensatory damages for breach of the Agreement only in the event the liquidated damages clause is not enforced; and
3. Any other relief the Panel may deem just and proper.

In the Statement of Answer and Counterclaim, Respondent requested:

1. Claimant's Statement of Claim be dismissed in its entirety, with prejudice;
2. Costs, disbursements, and reasonable attorneys' fees;
3. Compensatory damages on each of his counterclaims in an amount to be determined at the hearings in this matter;
4. Injunctive relief enjoining Claimant from enforcing the liquidated damages clause; and
5. Such other relief, general or special, legal or equitable, to which Respondent is justly entitled.

In the Answer to Counterclaim, Claimant requested:

1. Respondent's counterclaim be denied in its entirety;
2. Attorneys' fees and costs incurred in defending itself from Respondent's counterclaim pursuant to the Agreement or on the grounds that it is legally and factually frivolous and has been asserted in bad faith; and
3. Any other relief that the Panel thinks is just.

At the hearing, Claimant requested:

1. \$2,000,000.00 in liquidated damages or, in the alternative, \$9,523,563.00 in actual damages for two years of lost profits; and
2. All FINRA costs and fees be assessed against Respondent.

At the hearing, Respondent requested:

1. Claimant's claims for liquidated damages and actual damages be denied;
2. The Panel issue a finding that Claimant's liquidated clause in the Agreement violates Cal. Bus. & Prof. Code sections 16600 and 17200; and
3. Attorneys' fees pursuant to Cal. Code Civ. Proc. section 1021.5.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature

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

FINDINGS

The Panel has concluded that Cal. Bus. & Prof. Code section 16600 applies in this case and, therefore, the Panel is not awarding damages to Claimant.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 Counterclaim is denied.
3. Any and all claims for relief not specifically addressed herein, including any requests for 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	= \$	3,400.00
Counterclaim Filing Fee	= \$	1,575.00

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

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000) Respondent is assessed a \$200.00 counterclaim filing fee. The balance of the non-refundable portion of the counterclaim filing fee, in the amount of \$175.00, is assessed to Claimant.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Claimant is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

Postponement Fees

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

May 19-22, 2020, postponement requested by Claimant = \$ Waived

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

Three (3) decisions on discovery-related motions on the papers with the Panel @ \$600.00/decision = \$ 1,800.00

Claimant submitted four (4) discovery-related motions
Respondent submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees = \$ 2,400.00

The Panel waived \$200.00 of the discovery-related motion fees.

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000), the Panel has assessed \$2,200.00 of the discovery-related motion fees to Claimant.

Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one (1) Arbitrator @ \$250.00 = \$ Waived

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

Six (6) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 8,400.00
Pre-Hearing Conferences: August 1, 2018 1 session
March 14, 2019 1 session
February 18, 2020 1 session
July 20, 2020 1 session
October 16, 2020 1 session
February 8, 2021 1 session

Twelve (12) hearing sessions @ \$1,400.00/session = \$ 16,800.00
Hearings: October 11, 2021 2 sessions
October 12, 2021 2 sessions
October 13, 2021 2 sessions
October 14, 2021 2 sessions
October 15, 2021 2 sessions

October 26, 2021

2 sessions

Total Hearing Session Fees = \$ 25,200.00

The Panel has waived \$2,800.00 of the hearing session fees.

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000), the Panel has assessed \$22,400.00 of the hearing session fees to Claimant.

ARBITRATION PANEL

Adam Michael Porter	-	Public Arbitrator, Presiding Chairperson
Robert C. Albini	-	Public Arbitrator
Michael G. Clark	-	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

Adam Michael Porter

Adam Michael Porter
Public Arbitrator, Presiding Chairperson

11/15/2021

Signature Date

Robert C. Albini

Robert C. Albini
Public Arbitrator

11/15/2021

Signature Date

Michael G. Clark

Michael G. Clark
Non-Public Arbitrator

11/13/2021

Signature Date

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November 15, 2021

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