

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Patrick Stephen Mullen
Daniel Lee Weidenhammer

Case Number: 18-01448

vs.

Respondent

Key Investment Services LLC

Hearing Site: Philadelphia, Pennsylvania

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: Associated Persons vs. Member

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Patrick Stephen Mullen (“Mullen”), and Daniel Lee Weidenhammer (“Weidenhammer”): Kevin D. Galbraith, Esq., The Law Office of Kevin Galbraith LLC, New York, New York.

For Respondent Key Investment Services LLC: Jeffrey S. Dunlap, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: April 20, 2018.

Amended Statement of Claim filed on or about: April 24, 2018.

Patrick Stephen Mullen signed the Submission Agreement: April 20, 2018.

Daniel Lee Weidenhammer signed the Submission Agreement: April 20, 2018.

Statement of Answer filed by Respondent on or about: July 16, 2018.

Key Investment Services LLC signed the Submission Agreement: April 30, 2018.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimants asserted the following causes of action: breach of FINRA Rule 2010, fraudulent misrepresentation, negligent misrepresentation, breach of contract, and promissory estoppel.

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

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimants requested compensatory damages in an amount not less than \$3,211,000.00 plus interest and costs; attorneys' fees; and punitive damages.

In the Statement of Answer, Respondent requested that Claimants' claims be dismissed in their entirety and that the Arbitration Panel award Respondent its attorneys' fees, forum fees, costs and expenses.

At the hearing, Claimant Mullen requested damages in the amount of \$889,633.30.

OTHER ISSUES CONSIDERED AND DECIDED

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

On March 22, 2021, Claimant Weidenhammer filed a notice of settlement and dismissed his claims against Respondent with prejudice. Therefore, the Panel made no determination with respect to any of the reliefs requested by Weidenhammer in the Statement of Claim.

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. Respondent is liable for and shall pay to Claimant Mullen the sum of \$125,000.00 in compensatory damages.
2. 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 = \$ 2,000.00

**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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Key Investment Services LLC 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:

June 11-14, 2019, postponement requested by the parties	= \$ 1,400.00
September 3-6, 2019, postponement requested by Claimants	= \$ 1,400.00

Total Postponement Fees	= \$ 2,800.00
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The Panel has assessed \$2,100.00 of the postponement fees jointly and severally to Claimants.

The Panel has assessed \$700.00 of the postponement fees to Respondent.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 200.00
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Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed the total discovery-related motion fees jointly and severally to Claimants.

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	= \$ 250.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$ 250.00
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The Panel has assessed \$50.00 the contested motion for issuance of subpoena fees jointly and severally to Claimants.

The Panel has assessed \$200.00 of the contested motion for issuance of subpoena 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session		= \$ 4,200.00
Pre-Hearing Conferences:		
August 30, 2018	1 session	
May 19, 2020	1 session	
September 22, 2020	1 session	
Eight (8) hearing sessions @ \$1,400.00/session		= \$ 11,200.00
Hearings:		
August 2, 2021	2 sessions	
August 3, 2021	2 sessions	
August 4, 2021	2 sessions	
August 5, 2021	2 sessions	
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Total Hearing Session Fees		= \$ 15,400.00

The Panel has assessed \$1,400.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$5,600.00 of the hearing session fees to Claimant Mullen.

The Panel has assessed \$7,000.00 of the hearing session fees to Respondent.

The Panel waived the \$1,400.00 fees for the May 19, 2020 pre-hearing conference.

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

ARBITRATION PANEL

Elliot B. Platt	-	Public Arbitrator, Presiding Chairperson
Diane Ciccone	-	Public Arbitrator
Christopher Robert Madel	-	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

Elliot B. Platt

Elliot B. Platt
Public Arbitrator, Presiding Chairperson

08/10/2021

Signature Date

Diane Ciccone

Diane Ciccone
Public Arbitrator

08/10/2021

Signature Date

Christopher Robert Madel

Christopher Robert Madel
Non-Public Arbitrator

08/10/2021

Signature Date

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August 11, 2021

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