

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant
Jefferies LLC

Case Number: 18-04198

vs.

Respondent
Patrick M. Cunningham

Hearing Site: Chicago, Illinois

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

REPRESENTATION OF PARTIES

For Claimant Jefferies, LLC (“Claimant”): Andrew J. Shapren, Esq., Buchanan Ingersoll & Rooney PC, Philadelphia, Pennsylvania.

For Respondent Patrick M. Cunningham (“Respondent”): Patrick Moran, Esq., Gordon Rees Scully Mansukhani, LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: December 12, 2018.
Answer to Counterclaim filed on or about: March 28, 2019.
Claimant signed the Submission Agreement: November 9, 2018.

Statement of Answer and Counterclaim filed on or about: February 1, 2019.
Respondent signed the Submission Agreement: January 30, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: breach of contract. The cause of action related to four agreements entered into between Claimant and Respondent while Respondent was employed by Claimant (“Repayment Agreements”). Claimant asserted that, despite demands, Respondent has failed and refused to repay Respondent the amount owed under the Repayment Agreements.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim, asserted various affirmative defenses, and asserted a claim for unpaid wages and commissions.

Unless specifically admitted in the Statement of Answer to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Answer to Counterclaim, Claimant requested compensatory damages for breach of the Repayment Agreements in the amount of \$551,252.00; attorneys' fees and costs incurred in this matter as provided for in the Repayment Agreements; pre-award and post-award interest; and any further relief the Panel may deem just and proper.

In the Statement of Answer and Counterclaim, Respondent requested that the Panel deny Claimant's requests for relief and requested the full amounts due and owing Respondent as wages or commissions, approximated at \$345,000.00; an award of double damages pursuant to NY CLS Labor § 191-c(3); an award of attorneys' fees and costs; pre-award and pre-judgment interest; and a declaration that the Repayment Agreements are not legally enforceable.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 18, 2022, the parties filed a Joint Motion for Entry of a Stipulated Award ("Motion"). Herein, the Panel grants the Motion.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. Respondent is liable for breach of contract and shall pay to Claimant the amount of \$551,252.00, plus interest at the statutory rate of 9% per annum (\$136.20 per day) from June 2, 2017 until the Award is paid in full.

2. Respondent shall also pay Claimant its attorneys' fees and costs incurred in his matter in the amount of \$125,000.00, plus interest at the statutory rate of 9% running from the date of this Award until the Award is paid in full.
3. The parties shall bear their own FINRA hearing and forum fees as may be assessed by FINRA and/or the Panel.
4. The time period for Claimant to file a motion or petition to confirm this Award under applicable law shall not begin to accrue unless and until Respondent defaults on a term or condition of the Confidential Settlement Agreement.
5. Any and all relief not specifically addressed herein is denied and dismissed with prejudice, including Respondent's counterclaims.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees* for each claim:

Initial Claim Filing Fee	=\$ 2,550.00
Counterclaim 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(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	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

Postponement Fees

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

January 11-14, 2022, postponement requested jointly by the parties	=\$ 1,300.00
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Total Postponement Fees	=\$ 1,300.00

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

The Panel has assessed \$650.00 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 11-14, 2022, cancellation requested jointly by the parties	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed \$900.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$900.00 of the last-minute cancellation fees to Respondent.

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 Arbitrator @ \$250.00		Waived
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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:

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$	3,900.00
Pre-Hearing Conferences: April 9, 2019	1 session	
June 15, 2020	1 session	
February 8, 2021	1 session	
Decision on the papers:	= \$	300.00
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Total Hearing Session Fees	= \$	4,200.00

The Panel has assessed \$2,100.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,100.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Jonathan B. Gilbert	-	Public Arbitrator, Presiding Chairperson
John William Kenesey	-	Public Arbitrator
Jonah J. Orlofsky	-	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

Jonathan B. Gilbert

Jonathan B. Gilbert
Public Arbitrator, Presiding Chairperson

03/03/2022

Signature Date

John William Kenesey

John William Kenesey
Public Arbitrator

03/03/2022

Signature Date

Jonah J. Orlofsky

Jonah J. Orlofsky
Non-Public Arbitrator

03/03/2022

Signature Date

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March 03, 2022

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

