

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Derek Rudolf D'Alonzo

Case Number: 19-00280

vs.

Respondent  
SunTrust Investment Services, Inc.

Hearing Site: Atlanta, Georgia

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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 Person vs. Member

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Derek Rudolf D'Alonzo ("Claimant"): Ian E. Smith, Esq., Barrett & Farahany, LLP, Atlanta, Georgia.

For Respondent SunTrust Investment Services, Inc. ("Respondent"): Keith J. Barnett, Esq., Troutman Pepper Hamilton Sanders LLP, Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: January 22, 2019.

Claimant's Answer to Respondent's Counterclaim filed on or about: April 29, 2019.

Claimant signed the Submission Agreement: November 27, 2018.

Statement of Answer and Counterclaim filed by Respondent on or about: April 9, 2019.

Respondent signed the Submission Agreement: April 10, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted causes of action for libel and intentional infliction of emotional distress. The causes of action relate to alleged defamatory, false and misleading statements on Claimant's Form U4 and U5 filed by Respondent and maintained by the Central Registration Depository ("CRD").

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Counterclaim, Respondent asserted causes of action for breach of promissory note and attorneys' fees. The Counterclaim relates to Claimant's alleged breach of repayment obligations from the promissory note with Respondent.

Unless specifically admitted in Claimant's 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:

1. General damages for mental and emotional suffering caused by Respondent's conduct;
2. General damages for diminution of Claimant's professional reputation;
3. Punitive damages for Respondent's willful, malicious, intentional and deliberate acts, including ratification, condonation and approval of said acts;
4. Special damages for lost wages, benefits and future wages, and prejudgment interest thereon;
5. Reasonable attorneys' fees and expenses of litigation and arbitration;
6. Pre-judgment interest at the rate allowed by law; and
7. All other relief to which Claimant may be entitled.

In the Statement of Answer and Counterclaim, Respondent requested:

1. Dismissal of the Statement of Claim with prejudice;
2. Costs, expenses and attorneys' fees incurred in this matter;
3. Compensatory damages in the amount of \$140,533.25;
4. Prejudgment interest at the rate allowed by law; and
5. All such further relief to which Respondent may be entitled.

In Claimant's Answer to the Counterclaim, Claimant requested dismissal of Respondent's counterclaim.

At the hearing, Claimant requested:

1. Compensatory damages in the amount of:
  - a. \$3,700,00.00 to \$7,000,000.00 for libel per se;
  - b. \$1,500,000.00 to \$3,000,000.00 for emotional distress;
  - c. \$190,000.00 for lost wages in 2017;
  - d. \$1,000,000.00 to \$2,000,000.00 for lost potential business;
  - e. \$1,000,000.00 to \$3,000,000.00 for lost book of business; and
  - f. Unspecified amount of damages for family distress;
2. Attorneys' fees in the amount of \$100,000.00 to \$200,000.00;
3. Reimbursement of costs in the amount of \$2,000.00 to \$5,000.00; and
4. Expungement of the Form U5 Termination Disclosure found under Occurrence Number 1943303 on Claimant's CRD records.

At the hearing, Respondent requested:

1. Repayment of \$140,533.25; and
2. Attorneys' fees in the amount of \$60,000.00 to \$70,000.00.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

At the hearing, Respondent filed a Motion to Dismiss after the conclusion of Claimant's case-in-chief pursuant to Rule 13504(b) of the Code of Arbitration Procedure ("Code"). The Motion to Dismiss was denied.

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

### **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 requests for monetary damages are denied in their entirety.
2. Claimant is liable for and shall pay to Respondent the sum of \$140,533.25 in compensatory damages.
3. The Arbitrator recommends expungement of the response to Question 4 on the Termination Disclosure Reporting Page concerning Occurrence Number 1943303 on Claimant Derek Rudolph D'Alonzo's (CRD Number 2099610) registration records maintained by the CRD. The response to Question 4 shall be deleted and replaced with the following language: "Representative made a change to a client signed document after having received it back from the client, with the client's express permission. He then submitted the document for processing."
4. These recommendations are made with the understanding that Claimant Derek Rudolph D'Alonzo must obtain confirmation of this award from a court of competent jurisdiction before the CRD will execute the expungement directive. The registration records are not automatically amended to include the changes indicated above. Claimant must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure ("CRED") Department for the amendments to be incorporated into the registration records.
5. 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, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	= \$	1,575.00
Counterclaim Filing Fee	= \$	2,125.00

*\*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, Respondent is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

### **Postponement Fees**

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

February 18-20, 2020, postponement requested by Parties	= \$	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 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 @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: May 6, 2019	1 session	
November 11, 2020	1 session	

Five (5) hearing sessions @ \$1,125.00/session	= \$	5,625.00
Hearings: January 26, 2021	2 sessions	
January 27, 2021	2 sessions	
January 28, 2021	1 sessions	

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Total Hearing Session Fees	= \$	7,875.00
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The Panel has assessed \$3,937.50 of the hearing session fees to Claimant.

The Panel has assessed \$3,937.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Barbara Black	-	Public Arbitrator, Presiding Chairperson
Robert H. Putnam, Jr.	-	Public Arbitrator
Joel Lee Glasco	-	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**

***Barbara Black***

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Barbara Black  
Public Arbitrator, Presiding Chairperson

**03/01/2021**

\_\_\_\_\_  
Signature Date

***Robert H. Putnam, Jr.***

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Robert H. Putnam, Jr.  
Public Arbitrator

**02/27/2021**

\_\_\_\_\_  
Signature Date

***Joel Lee Glasco***

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Joel Lee Glasco  
Non-Public Arbitrator

**03/02/2021**

\_\_\_\_\_  
Signature Date

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March 4, 2021

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