

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Patricia Mezzancello and DCB321, LLC

Case Number: 19-01202

vs.

Respondent

David Michael McCorison

Hearing Site: Boca Raton, Florida

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: Customers vs. Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Patricia Mezzancello and DCB321, LLC: Jon A. Jacobson, Esq., Jacobson Law, P.A., West Palm Beach, Florida.

For Respondent David Michael McCorison: Denis Dice, Esq., Winget, Spadafora & Schwartzberg, LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: April 30, 2019.

Patricia Mezzancello signed the Submission Agreement: April 30, 2019.

DCB321, LLC signed the Submission Agreement: April 30, 2019.

Statement of Answer filed by Respondent on or about: July 5, 2019.

David Michael McCorison signed the Submission Agreement: July 8, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; gross negligence; negligent misrepresentation/omission; breach of fiduciary duty; breach of contract; breach of the duty of good faith and dealing; fraud; and constructive fraud. The causes of action relate to Respondent's alleged forgery and alteration of Claimants' documents, and

Respondent's investment recommendation into, and alleged interference with, Claimants' two restaurants, Mussel Beach Restaurant, Inc. ("MBR") and Manhattan Beach Grill LLC ("MBG").

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, Claimants requested: compensatory damages in amount to be determined; all costs, expenses, and disbursements paid, owed, or incurred by Claimants in connection with this arbitration; all filing fees and forum fees paid, owed, or incurred by Claimants in connection with this arbitration; reasonable attorneys' fees incurred by Claimants in connection with this arbitration pursuant to FLA. STAT. §§517.211 and 772.11; treble damages in an amount to be determined by the Panel pursuant to FLA. STAT. § 772.11; punitive damages in an amount to be determined by the Panel; sanctions in a form and amount to be determined by the Panel; remuneration sufficient to cover the taxes applied to any award made to Claimants; pre- and post-judgment interest at the maximum legal rate permissible under the law on all sums recovered; and such other relief as the Panel deemed just and appropriate.

In the Statement of Answer, Respondent requested a denial of Claimants' claims and that Claimants' allegations be dismissed with prejudice based upon the totality of the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 31, 2020, Respondent filed a Motion to Dismiss pursuant to Rule 12504 of the Code of Arbitration Procedure ("Code"). On March 5, 2020, Claimants filed a response opposing the Motion to Dismiss. On March 10, 2020, Respondent filed a reply in support of his Motion to Dismiss. On April 1, 2020, the Panel heard oral arguments on the Motion to Dismiss and subsequently issued an Order in which it denied Respondent's Motion.

At the close of Claimants' case-in-chief, Respondent made two (2) ore tenus Motions to Dismiss: 1) Claimants' request for attorneys' fees which Claimants deemed were not part of a prior settlement agreement with Respondent, and 2) all claims sustained by Mussel Beach Restaurant, one of Claimants' restaurants at issue in this case. Claimants objected to both Motions to Dismiss. The Panel held an executive session and denied both Motions to Dismiss.

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. Claimants' claims are denied in their entirety.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble 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

*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 the member firm that employed Respondent at the time of the events giving rise to the dispute, The Investment Center, Inc. is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

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 = \$ 200.00

Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fee = \$ 200.00

The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$100.00 of the discovery-related motion 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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session = \$ 900.00

Pre-Hearing Conferences: March 3, 2020 1 session

July 1, 2020 1 session

Five (5) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 5,625.00

Pre-Hearing Conferences: August 30, 2019 1 session

April 1, 2020	1 session
April 7, 2020	1 session
April 8, 2020	1 session
May 7, 2020	1 session

Ten (10) hearing sessions @ \$1,125.00/session = \$ 11,250.00

Hearings:	January 11, 2022	2 sessions
	January 12, 2022	2 sessions
	January 13, 2022	2 sessions
	January 14, 2022	2 sessions
	February 2, 2022	2 sessions

Total Hearing Session Fees = \$ 17,775.00

The Panel has assessed \$7,762.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$8,887.50 of the hearing session fees to Respondent.

The Panel has waived \$1,125.00 of the hearing session fees for the April 7, 2020, pre-hearing conference.

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

ARBITRATION PANEL

Herbert Branitsky	-	Public Arbitrator, Presiding Chairperson
Alessandra Piras Torrens	-	Public Arbitrator
Peter Frank Ferola	-	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

Herbert Branitsky

Herbert Branitsky
Public Arbitrator, Presiding Chairperson

02/09/2022

Signature Date

Alessandra Piras Torrens

Alessandra Piras Torrens
Public Arbitrator

02/10/2022

Signature Date

Peter Frank Ferola

Peter Frank Ferola
Public Arbitrator

02/10/2022

Signature Date

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February 10, 2022

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