

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Terlink, Inc.

Case Number: 19-03357

vs.

Respondent
Pershing LLC

Hearing Site: Houston, Texas

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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Terlink, Inc. (“Claimant”): Michael J. Stanley, Esq., Stanley Law, P.C., Houston, Texas and Samuel B. Edwards, Esq. and David Miller, Esq., Shepherd Smith Edwards & Kantas, LLP, Houston, Texas.

For Respondent Pershing LLC (“Respondent”): Thomas M. Farrell, Esq., McGuireWoods LLP, Houston, Texas and Jeffrey J. Chapman, Esq., McGuireWoods LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 11, 2019.
Claimant signed the Submission Agreement: November 8, 2019.

Statement of Answer filed on or about: January 2, 2020.
Respondent did not sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: common law and constructive fraud, negligent misrepresentation, negligence, breach of fiduciary duty, breach of contract, violation of FINRA Conduct Rule 3310, violation of FINRA Rule 2020, violation of FINRA Rule 2010, aiding and abetting breach of fiduciary duty, respondeat superior/violation of FINRA Rule 3110, and aiding and abetting violation of the Texas Securities Act. The causes of action related to Claimant’s allegation that Respondent, acting as custodian and clearing firm for

Stanford Group Company (“SGC”), gave material assistance to a Ponzi scheme, involving certificates of deposit (“CDs”) issued by Stanford International Bank, Ltd. and recommended by SGC financial advisors. Claimant further alleged that, despite having knowledge of troubling facts about the CDs and SGC, Respondent continued to provide validation and assistance.

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, Claimant requested:

- a. An award of approximately \$6,000,000.00;
- b. Compensation for Claimant’s loss of use of capital;
- c. Disgorgement of all benefits and monies Respondent obtained as a result of its relationship with SGC;
- d. Punitive damages in an amount at least three times the amount of compensatory damages;
- e. Pre-judgment and post-judgment interest at the legal rate;
- f. All costs and fees incurred in this action, including all forum fees, expert witness-related fees, and any additional costs/fees incurred;
- g. Attorneys’ fees;
- h. Such further relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested that Claimant’s claims be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and, having answered the claim and having representation at the hearing, is bound by the determination of the Panel on all issues submitted.

On March 24, 2020, Respondent filed a Motion to Dismiss pursuant to Rule 12206 of the Code (“Motion to Dismiss”). On April 8, 2020, Claimant filed a Response to the Motion to Dismiss. On April 13, 2020, Respondent filed a Reply in Support of the Motion to Dismiss. On May 4, 2020, Claimant filed a Supplemental Opposition to the Motion to Dismiss. On May 11, 2020, the Panel heard oral arguments on the Motion to Dismiss. In an Order dated the same day, the Panel denied the Motion to Dismiss.

On December 18, 2020, Claimant filed a Request for Order Confirming Virtual Arbitration Alternative. On December 28, 2020, Respondent filed a Response in Opposition to the Request for Order Confirming Virtual Arbitration Alternative. On December 29, 2020, Claimant filed a Reply to the Opposition to the Request for Order Confirming Virtual Arbitration Alternative. In an Order dated January 8, 2021, the Panel granted Claimant’s request, ordering that the hearing would proceed virtually.

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 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 = \$ 2,250.00

**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 = \$ 4,025.00
Member Process Fee = \$ 7,000.00

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

Claimant submitted two (2) discovery-related motion
Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 600.00

The Panel has assessed \$300.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$300.00 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 the Panel @ \$1,500.00/session	= \$	3,000.00
Pre-Hearing Conferences: March 13, 2020	1 session	
May 11, 2020	1 session	
Seventeen (17) hearing sessions @ \$1,500.00/session	= \$	25,500.00
Hearings: March 1, 2021	2 sessions	
March 2, 2021	2 sessions	
March 3, 2021	2 sessions	
March 4, 2021	2 sessions	
March 5, 2021	2 sessions	
March 8, 2021	2 sessions	
March 9, 2021	2 sessions	
March 10, 2021	2 sessions	
March 11, 2021	1 session	

Total Hearing Session Fees = \$ 28,500.00

The Panel has assessed \$13,500.00 of the hearing session fees to Claimant.

The Panel has assessed \$15,000.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Stephanie E. Simmons	-	Public Arbitrator, Presiding Chairperson
David C. Redford	-	Public Arbitrator
Kevin Colby	-	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

Stephanie E. Simmons

Stephanie E. Simmons
Public Arbitrator, Presiding Chairperson

03/24/2021

Signature Date

David C. Redford

David C. Redford
Public Arbitrator

03/25/2021

Signature Date

Kevin Colby

Kevin Colby
Public Arbitrator

03/24/2021

Signature Date

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March 25, 2021

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