

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Cantor Fitzgerald & Co.

Case Number: 20-00630

vs.

Respondent
Michael Brennan

Hearing Site: New York, New York

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 Cantor Fitzgerald & Co.: David A. Paul, Esq., and Samantha Springer, Esq., Cantor Fitzgerald & Co., New York, New York.

For Respondent Michael Brennan: Jessica A. Murzyn, Esq., Ross B. Intelisano, Esq., and Christopher P. Keogh, Esq., Rich, Intelisano & Katz, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2020.

Statement of Answer to the Counterclaim filed on or about: May 27, 2020.

Cantor Fitzgerald & Co. signed the Submission Agreement: February 20, 2020.

Statement of Answer and Counterclaim filed by Respondent on or about: May 7, 2020.

Michael Brennan signed the Submission Agreement: May 7, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: breach of Promissory Note Agreements (“the Notes”).

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 the following causes of action: breach of contract; breach of the covenant of good faith and fair dealing, failure to pay compensation; breach of the securities industry rules, regulations and standards of conduct; violations of New York Labor Law; wrongful discharge; constructive

discharge; unjust enrichment; fraudulent inducement; quantum meruit; and other similar causes of action.

Unless specifically admitted in the Statement of 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 repayment of the outstanding principal amounts owed under the Notes in the amount of \$1,689,695; interest that accrues on the outstanding principal amounts through the date of judgment, pursuant to the terms of the Notes; pre-judgment interest at the statutory rate of 9% per annum on all damages, as provided by N.Y. C.P.L.R. §§5001, 5004; all cost and expenses, including the costs and disbursements of this arbitration, and reasonable attorneys' fees as provided by the Notes; and such other and further relief as is deemed just and proper.

In the Statement of Answer and Counterclaim, Respondent requested that the Panel issue an award dismissing the Statement of Claim in its entirety; grant Respondent relief on his Counterclaims; awarding Respondent costs and expenses, including reasonable attorneys' fees; and such other and further relief as the Panel deems appropriate.

In the Statement of Answer to the Counterclaim, Claimant requested that the Counterclaim be denied in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

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. Respondent is liable for and shall pay to Claimant the sum of \$1,252,600.90 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the amount of \$974,722.42 at the rate of 2.05% per annum from February 4, 2019 through and including August 31, 2021.
3. Respondent is liable for and shall pay to Claimant interest on the amount of \$277,878.57 at the rate of 1.96% per annum from February 4, 2019 through and including August 31, 2021.
4. Claimant is liable for and shall pay to Respondent the sum of \$303,239.73 in compensatory damages.

5. This Award is subject to an offset as described in item 6 below. Claimant's obligations are extinguished by the offset.
6. Respondent's award in the total amount of \$303,239.73 is an offset to Claimant's award in the total amount of \$1,252,600.90. As such, Respondent is liable for and shall pay to Claimant the amount of \$1,252,690.90 minus \$303,239.73 awarded to Respondent, for a net amount due to Claimant of \$949,361.17.
7. Any and all claims for relief not specifically addressed herein, including any requests for 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	=\$ 3,400.00
Counterclaim 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Claimant Cantor Fitzgerald & Co. 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:

July 16, 19-20, 2021, postponement requested by the parties	=\$ 1,400.00
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Total Postponement Fees	=\$ 1,400.00

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

The Panel has assessed \$700.00 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:

July 16, 19-20, 2021, postponement requested 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.

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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: March 30, 2021	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	4,200.00
Pre-Hearing Conferences: July 15, 2020	1 session	
November 16, 2020	1 session	
May 20, 2021	1 session	
Ten (10) hearing sessions @ \$1,400.00/session	= \$	14,000.00
Hearings: July 12, 2021	2 sessions	
July 13, 2021	2 sessions	
July 14, 2021	2 sessions	
July 15, 2021	2 sessions	
July 21, 2021	2 sessions	

Total Hearing Session Fees	= \$	18,650.00
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The Panel has assessed \$9,325.00 of the hearing session fees to Claimant.

The Panel has assessed \$9,325.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Jill Pilgrim	-	Public Arbitrator, Presiding Chairperson
Jay Alan Kranis	-	Public Arbitrator
Michael A Pickholz	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Jill Pilgrim

Jill Pilgrim
Public Arbitrator, Presiding Chairperson

09/07/2021

Signature Date

Jay Alan Kranis

Jay Alan Kranis
Public Arbitrator

09/03/2021

Signature Date

Michael A Pickholz

Michael A Pickholz
Non-Public Arbitrator

09/03/2021

Signature Date

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September 07, 2021

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