

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

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In the Matter of the Arbitration Between:

Claimant  
Brian C. Smith

Case Number: 20-00845

vs.

Respondent  
Royal W. Jaros d/b/a Royal Private Wealth,  
f/k/a Jaros & Associates

Hearing Site: Minneapolis, Minnesota

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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. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant Brian C. Smith (“Respondent”): John N. Bisanz, Jr., Esq. and Bruce C. Recher, Esq., Henson & Efron, P.A., Minneapolis, Minnesota.

For Respondent Royal W. Jaros d/b/a Royal Private Wealth, f/k/a Jaros & Associates (“Respondent”): Charlie R. Alden, Esq., Gilbert Alden Barbosa PLLC, Burnsville, Minnesota.

**CASE INFORMATION**

Statement of Claim filed on or about: March 13, 2020.  
Claimant signed the Submission Agreement: March 12, 2020.  
Answer to Counterclaim filed on or about: May 26, 2020.

Statement of Answer and Counterclaim filed on or about: May 4, 2020.  
Respondent signed the Submission Agreement: May 14, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract, promissory estoppel, unjust enrichment-quasi-contract, breach of covenant of good faith and fair dealing, interference with prospective economic advantage, conversion, and violation of FINRA Rule 2010. The causes of action related to the purchase of Claimant’s book of business by Respondent.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim, asserted various defenses, and asserted the following

causes of action: fraudulent misrepresentation and negligent misrepresentation (in the alternative). The causes of action related to the purchase of Claimant's book of business by Respondent.

In Claimant's Answer to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested damages of \$354,201.00 in connection with the breach of contract claim for Respondent to purchase Claimant's book of business; additional damages for lost compensation or back or front pay in an amount to be determined at the hearing; punitive damages in the discretion of the Panel; reasonable attorneys' fees, costs, expenses and disbursements; and prejudgment interest under Minnesota law.

In the Statement of Answer and Counterclaim, Respondent requested dismissal of the Statement of Claim, with prejudice; an award in favor of Respondent against Claimant on the Counterclaim in excess of \$50,000.00; and an award of out-of-pocket expenses incurred in this action, and attorneys' fees.

In the Answer to Counterclaim, Claimant requested that the Arbitrators award Claimant the following relief: dismissal of Respondent's Counterclaim, with prejudice; damages as requested in Claimant's Statement of Claim; and Claimant's reasonable attorneys' fees, costs, expenses, and disbursements.

At the close of the hearing, Claimant requested damages of \$369,088.00 and interest in the amount of \$57,333.15, plus an additional \$60.67 per day through the date an award is issued.

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

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

At the conclusion of the hearing, Claimant moved to dismiss Respondent's counterclaim for negligent misrepresentation. The Panel grants Claimant's motion herein.

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 \$200,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 4.0% per annum from April 18, 2019 through and including the date this Award is paid in full.
3. Respondent's Counterclaim, to the extent it was not previously dismissed, is denied.

4. 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 of Arbitration Procedure, the following fees are assessed:

**Filing Fees**

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

Initial Claim Filing Fee	= \$	1,425.00
Counterclaim Filing Fee	= \$	975.00

*\*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 Respondent's firm, Ameriprise Financial Services, LLC is assessed the following:

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

**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 @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences:		
July 7, 2020	1 session	
August 31, 2020	1 session	
May 3, 2021	1 session	
Eight (8) hearing sessions @ \$1,125.00/session	= \$	9,000.00
Hearings:		
November 16, 2021	2 sessions	
November 17, 2021	2 sessions	
November 18, 2021	2 sessions	
November 19, 2021	2 sessions	

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Total Hearing Session Fees	= \$	12,375.00
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The Panel has assessed \$6,187.50 of the hearing session fees to Claimant.

The Panel has assessed \$6,187.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Mark S. Gleason	-	Public Arbitrator, Presiding Chairperson
Lindsay Keller	-	Public Arbitrator
John Carl Bjork	-	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**

***Mark S. Gleason***

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Mark S. Gleason  
Public Arbitrator, Presiding Chairperson

**12/16/2021**

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

***Lindsay Keller***

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Lindsay Keller  
Public Arbitrator

**12/17/2021**

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

***John Carl Bjork***

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John Carl Bjork  
Non-Public Arbitrator

**12/17/2021**

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

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December 17, 2021

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