

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
CBIZ Financial Solutions, Inc.

Case Number: 20-01049

vs.

Respondent
Timothy Michael Schannep

Hearing Site: Phoenix, Arizona

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 CBIZ Financial Solutions, Inc. (“Claimant”): Jeffrey S. Dunlap, Esq. and Michael J. Charlillo, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

For Respondent Timothy Michael Schannep (“Respondent”): Roscoe J. Mutz, Esq., Farhang & Medcoff, Tucson, Arizona.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2020.
Claimant signed the Submission Agreement: March 30, 2020.

Statement of Answer filed by Respondent on or about: May 27, 2020.
Respondent signed the Submission Agreement: May 26, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the breach of the Confidentiality and Non-Solicitation Agreement, dated November 1, 2006 (“Agreement”) as the sole cause of action.

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:

1. The Panel finds in favor of Claimant on its claim against Respondent regarding his solicitation of Claimant's broker-dealer clients and awards Claimant compensatory damages in an amount to be determined at arbitration;
2. The Panel finds in favor of Claimant on its claim against Respondent regarding his soliciting, conducting business with, and/or accepting money from Claimant's Registered Investment Advisors clients and awards Claimant compensatory damages in an amount to be determined at arbitration;
3. The Panel finds in favor of Claimant on its claim against Respondent regarding his solicitation and hiring of Claimant's employees in violation of his Agreement;
4. Attorneys' fees;
5. Costs; and
6. Such other relief in Claimant's favor as may be just and required under the circumstances of this case.

In the Statement of Answer, Respondent requested:

1. Dismissal of Claimant's claims with prejudice;
2. Claimant takes nothing;
3. Attorneys' fees;
4. Costs; and
5. Such other and further relief as the Panel deems just and proper.

At the hearing, Claimant requested \$1,012,350.95 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

FINDINGS

The Panel awarded \$1.00 as nominal compensatory damages to Claimant for breaches of the Agreement, regarding the return of confidential information and the hiring away of employees. Although the Panel found that Respondent breached the non-solicitation provisions of the Agreement, it concluded that those provisions were overly broad and chose not to revise or reform them.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 \$1.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant the sum of \$125,027.20 in attorneys' fees pursuant to the Agreement.

3. Any and all claims for relief not specifically addressed herein 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 = \$ 1,700.00

**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, Claimant 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 4,500.00
Pre-Hearing Conferences: July 22, 2020 1 session
March 3, 2021 1 session
September 13, 2021 1 session
October 27, 2021 1 session

Five (5) hearing sessions @ \$1,125.00/session = \$ 5,625.00
Hearings: December 6, 2021 2 sessions
December 7, 2021 2 sessions
December 8, 2021 1 session

Total Hearing Session Fees = \$ 10,125.00

The Panel has assessed the total hearing session fees to Respondent.

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

ARBITRATION PANEL

Marc Kalish	-	Public Arbitrator, Presiding Chairperson
Harold J. Merkow	-	Public Arbitrator
Kenneth R. Johnston	-	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

Marc Kalish

Marc Kalish
Public Arbitrator, Presiding Chairperson

12/09/2021

Signature Date

Harold J. Merkow

Harold J. Merkow
Public Arbitrator

12/09/2021

Signature Date

Kenneth R. Johnston

Kenneth R. Johnston
Non-Public Arbitrator

12/09/2021

Signature Date

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December 10, 2021

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