

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

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In the Matter of the Arbitration Between:

Claimant  
Michael Lyublinsky

Case Number: 20-01986

vs.

Respondent  
NatWest Markets Securities Inc.

Hearing Site: New York, New York

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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. Member

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Michael Lyublinsky: Todd Gutfleisch, Esq., and Alisha McCarthy, Esq., Harris, St. Laurent & Wechsler, LLP, New York, New York.

For Respondent NatWest Markets Securities Inc.: Joseph Baumgarten, Esq., Edna Guerrasio, Esq., and Margaret F. Swetman, Esq., Proskauer Rose LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: June 23, 2020.

Michael Lyublinsky signed the Submission Agreement: June 20, 2020.

Statement of Answer filed by Respondent on or about: September 18, 2020.

NatWest Markets Securities Inc. signed the Submission Agreement: September 18, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract; breach of contract - failure to pay dividends; breach of contract - duty of good faith and fair dealing; unjust enrichment; quantum meruit; promissory estoppel; violation of Connecticut General Statutes §§ 31 – 71; conversion; and severance.

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 compensatory damages in the amount of \$11,310,774.00; statutory interest of 10% from the earliest date of the breach; penalties equal to 100% of the withheld wages; attorneys' fees and costs; punitive damages; and such other and further relief as available in equity and/or under the law, and as the Panel may deem just, fair and/or reasonable.

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

At the hearing, Claimant requested damages of \$27,500,000.00 for all causes of action set forth in the Statement of Claim.

### **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, 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 \$1,525,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant \$750.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, and 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 =\$ 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 that employed the associated person at the time of the events giving rise to the

dispute. Accordingly, as a party, Respondent NatWest Markets Securities Inc. is assessed the following:

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

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

September 21-24, 27-30, 2021, postponement requested by the parties.	WAIVED
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**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
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One (1) decision on a discovery-related motion on the papers with the panel @ \$600/decision	= \$ 600.00
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Claimant submitted three (3) discovery-related motions

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Total Discovery-Related Motion Fees	= \$ 1,200.00
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The Panel has assessed \$600.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$600.00 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 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: April 23, 2021	1 session

Four (4) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$ 6,000.00
Pre-Hearing Conferences: October 20, 2020	1 session
June 7, 2021	1 session
September 21, 2021	1 session
January 17, 2022	1 session

Fifteen (15) hearing sessions @ \$1,500.00/session	= \$ 22,500.00
Hearings: January 25, 2022	2 sessions
January 26, 2022	2 sessions
January 27, 2022	2 sessions
January 28, 2022	2 sessions
January 31, 2022	1 session
February 1, 2022	2 sessions

February 2, 2022	2 sessions
February 3, 2022	2 sessions

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Total Hearing Session Fees	= \$ 28,950.00
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The Panel has assessed \$14,475.00 of the hearing session fees to Claimant.

The Panel has assessed \$14,475.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Harvey Barrison	-	Public Arbitrator, Presiding Chairperson
Joseph J. Arata	-	Public Arbitrator
Donald Davis Capelin	-	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**

***Harvey Barrison***

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Harvey Barrison  
Public Arbitrator, Presiding Chairperson

**02/08/2022**

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Signature Date

***Joseph J. Arata***

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Joseph J. Arata  
Public Arbitrator

**02/08/2022**

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

***Donald Davis Capelin***

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Donald Davis Capelin  
Non-Public Arbitrator

**02/08/2022**

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February 09, 2022

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