

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ameriprise Financial Services, LLC

Case Number: 20-02318

vs.

Respondent
Michael Joseph Dellaporta III

Hearing Site: Boca Raton, Florida

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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Ameriprise Financial Services, LLC: Ryan S. Nichols, Esq., Shumaker, Loop & Kendrick, LLP, Sarasota, Florida.

Respondent Michael Joseph Dellaporta III appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: July 22, 2020.

Ameriprise Financial Services, LLC signed the Submission Agreement: July 22, 2020.

Statement of Answer filed by Respondent on or about: September 23, 2020.

Michael Joseph Dellaporta III signed the Submission Agreement: October 14, 2020.

Response to Statement of Answer filed by Claimant on or about: September 25, 2020.

CASE SUMMARY

Claimant asserted the cause of action of breach of contract. The cause of action relates to Respondent's alleged default of his obligations under the settlement agreement dated June 8, 2018, as amended ("Settlement Agreement") concerning the collection of unpaid promissory notes.

Unless specifically admitted in the Statement of Answer, Respondent asserted various defenses and advised of his intent to uphold his obligations to the best of his ability.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested the entry of a stipulated award for: compensatory damages in the amount of \$302,891.18, the principal owed as of April 17, 2020; pre-award interest of 16% on the principal amount from April 17, 2020 to the date of the award; post-award interest starting thirty days from the date of the award until paid at the maximum rate allowable by law; attorneys' fees as well as the costs, filing fees, forum fees and hearing deposits incurred in collection of the debt; and such other and further relief as the Panel deemed just and appropriate.

In the Statement of Answer, Respondent did not delineate any specific relief request.

In the Response to Statement of Answer, Claimant reiterated the relief requests contained in Claimant's 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.

On or about September 30, 2020, Claimant filed a Motion for Judgment on the Pleadings ("Motion"), in which it asserted, among other things, that no questions of law or fact need to be adjudicated at an in-person evidentiary hearing due to Respondent's repeated admissions and affirmations, and that Respondent executed a contractual waiver of all defenses or counterclaims. On or about October 12, 2020, Respondent filed a response, in which he requested, among other things, that Claimant's Motion be denied because questions of fact regarding the Settlement Agreement, subsequent agreements and good faith attempts to honor them require further examination by the Panel. On or about October 14, 2020, Claimant filed a reply opposing the response, in which it reiterated the reasons to grant Claimant's Motion. On November 20, 2020, the Panel heard oral arguments from the parties, issued an Order that granted the Motion and requested that Claimant submit an affidavit of attorneys' fees it seeks to recover. On February 2, 2021, the parties' arguments were memorialized on a recorded hearing.

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 \$302,891.18 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 5% per annum from April 17, 2020 until the date of payment of the Award. Post-award interest shall accrue (if applicable) in accordance with the Code of Arbitration Procedure ("Code").

3. Respondent is liable for and shall pay to Claimant the sum of \$1,005.00 in costs.
4. Respondent is liable for and shall pay to Claimant the sum of \$3,440.75 in attorneys' fees, pursuant to the Settlement Agreement.
5. Any and all claims for relief not specifically addressed herein 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 = \$ 2,125.00

**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 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 @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing Conferences: November 20, 2020 1 session	
February 2, 2021 1 session	
Total Hearing Session Fees	= \$ 2,250.00

The Panel has assessed \$1,125.00 of the hearing session fees to Respondent.

The hearing session fees in the amount of \$1,125.00 in connection with the February 2, 2021 pre-hearing conference were waived.

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

ARBITRATION PANEL

Steven Gerard Goerke	-	Public Arbitrator, Presiding Chairperson
Jay Andrew Meyers	-	Public Arbitrator
Michael Mazor	-	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

Steven Gerard Goerke

Steven Gerard Goerke
Public Arbitrator, Presiding Chairperson

02/04/2021

Signature Date

Jay Andrew Meyers

Jay Andrew Meyers
Public Arbitrator

02/04/2021

Signature Date

Michael Mazor

Michael Mazor
Non-Public Arbitrator

02/04/2021

Signature Date

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.

February 05, 2021

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