

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
National Securities Corporation

Case Number: 20-03270

vs.

Respondent
Kurt Anthony Stein

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant National Securities Corporation: Fred Knopf, Esq., National Securities Corporation, New York, New York.

Respondent Kurt Anthony Stein appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: September 16, 2020.

Answer to Counterclaim filed on or about: November 24, 2020.

National Securities Corporation signed the Submission Agreement: September 16, 2020.

Statement of Answer and Counterclaim filed by Respondent on or about: November 2, 2020.

Amended Statement of Answer and Counterclaim filed on or about: September 13, 2021.

Kurt Anthony Stein signed the Submission Agreement: November 9, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of promissory note and breach of independent contractor agreement.

Unless specifically admitted in the Statement of Answer and Amended Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Counterclaim and Amended Counterclaim, Respondent asserted the following causes of action: negligent misrepresentation; fraud in the inducement; implied covenant of good faith and fair dealing; gross negligence/reckless disregard in supervision; and tortious interference.

Unless specifically admitted in the Answer to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$169,091.96; interest; costs; disbursements; expenses; and fees (including attorneys' fees); and that the Panel award Claimant any and all further relief that it deems just and appropriate under the circumstances.

In the Statement of Answer and Counterclaim, Respondent requested that the Panel deny the Statement of Claim; compensatory damages; punitive damages; costs; interest; and any other damages.

At the hearing, Respondent requested damages in the amount of \$8,700,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

By correspondence dated September 14, 2021, Claimant submitted an Affirmation of Damages, Fees, Costs, and Expenses requesting damages on the Promissory Note in the amount of \$140,000.00, \$10,000.00 for an indemnification claim; interest in the amount of \$30,055.00, and attorneys' fees in the amount of \$29,000.00.

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.

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 \$140,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest in the amount of \$30,055.00.
3. Respondent is liable for and shall pay to Claimant interest on the award of \$140,000.00 at the rate of 4% per annum from one month after the date of the award until the award is paid in full.

4. Respondent is liable for and shall pay to Claimant the sum of \$29,000.00 in attorneys' fees pursuant to contract.
5. Respondent's Counterclaim is denied.
6. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, are denied.

ARBITRATORS' EXPLANATION

Claimant established that there was an outstanding promissory note, executed by Respondent, which was unpaid in the amount of \$140,000.00. The note became due upon the termination of the Independent Contractor Agreement, which constituted an Event of Default, in March of 2019. Respondent failed to establish any cognizable defense for non-payment. Under the terms of the note, Respondent is liable for reimbursement of the amount paid to him, plus 4% interest and attorney's fees incurred in collection. The rate of interest increased to 7% upon Respondent's default. Accordingly, the Panel's Award is in favor of Claimant with respect to its claim pursuant to the promissory note. The Panel considered and declined Claimant's request for reimbursement for monies paid to settle a claim brought by one of Respondent's clients. There was little evidence produced with respect to this claim, and the settlement decision appears to have been a judgment independently made by Claimant. Respondent asserted a number of allegations in his Counterclaim. The crux of his allegations are that Claimant wrongfully induced him to join Respondent by making false representations as to the nature of how Respondent's business could be run. Respondent's specific allegations were: Negligent Misrepresentation, Fraud in the Inducement, Implied Covenant of Good Faith and Fair Dealing, Gross Negligence/ Reckless Disregard in Supervision and Tortious Interference. After carefully considering all of the evidence, the Panel found that Respondent failed to establish any of the claims asserted. The evidence at the hearing demonstrated that Respondent was frustrated by the rejection of specific deals he wished to take forward, which did not pass muster with Respondent's various Committee approval processes. However, there was no credible evidence adduced establishing that any of the communications Respondent received prior to accepting his position with Claimant were fraudulent, deceptive or misleading. In addition, the Independent Contractor Agreement signed by both parties included language to the effect that there were no additional terms that applied apart from those included in the Agreement. For the reasons set out above, Respondent's Counterclaim is denied in its entirety.

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 | =\$ 2,125.00 |
| 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, Respondent National Securities Corporation is assessed the following:

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|--------------------|---------------|
| Member Surcharge | = \$ 1,700.00 |
| 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:

| | |
|--|---------------------|
| Three (3) pre-hearing sessions with a single Arbitrator @ \$450.00/session | = \$ 1,350.00 |
| Pre-Hearing Conferences: May 19, 2021 | 1 session |
| June 24, 2021 | 1 session |
| August 30, 2021 | 1 session |
| One (1) pre-hearing session with the Panel @ \$1,125.00/session | = \$ 1,125.00 |
| Pre-Hearing Conference: January 19, 2021 | 1 session |
| Three (3) hearing sessions @ \$1,125.00/session | = \$ 3,375.00 |
| Hearings: September 13, 2021 | 2 sessions |
| September 14, 2021 | 1 session |
| <hr/> Total Hearing Session Fees | <hr/> = \$ 5,850.00 |

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

| | | |
|---------------------|---|--|
| Noah Jonathan Hanft | - | Public Arbitrator, Presiding Chairperson |
| Peter A. Seibel | - | Public Arbitrator |
| John Farrell Connor | - | 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

Noah Jonathan Hanft

Noah Jonathan Hanft
Public Arbitrator, Presiding Chairperson

09/25/2021

Signature Date

Peter A. Seibel

Peter A. Seibel
Public Arbitrator

09/24/2021

Signature Date

John Farrell Connor

John Farrell Connor
Non-Public Arbitrator

09/24/2021

Signature Date

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September 27, 2021

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