

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Francis G. Mitchell

Case Number: 20-03720

vs.

Respondents
Christopher Frattini
Gregory Hatzimichael
Mozart Prudent

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: Associated Person vs. Associated Persons

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

Claimant Francis Gerald Mitchell appeared pro se.

For Respondents Christopher John Frattini, Gregorios Hatzimichael, and Mozart M. Prudent: Michael Utilla, Esq., Joseph Mure, Jr. & Associates, Brooklyn, New York.

CASE INFORMATION

Amended Statement of Claim filed on or about: November 5, 2020.

Answer to Christopher Frattini's Counterclaim filed on or before: November 12, 2021.

Francis G. Mitchell signed the Submission Agreement: November 3, 2020.

Joint Statement of Answer filed by Respondents on or about: December 21, 2020.

Counterclaim filed by Christopher Frattini on or about: May 19, 2021.

Christopher Frattini signed the Submission Agreement: December 15, 2020.

Gregory Hatzimichael signed the Submission Agreement: December 17, 2020.

Mozart Prudent signed the Submission Agreement: December 18, 2020.

CASE SUMMARY

In the Amended Statement of Claim, Claimant asserted the following causes of action: breach of contract and tortious interference with contracts.

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

In the Counterclaim, Christopher Frattini asserted the following causes of action: malicious prosecution; fraud; and abuse of process.

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

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested: damages in an amount to be determined and such other and different relief as the Panel deemed just and proper, together with interest, costs and attorney fees.

In the Joint Statement of Answer, Respondents requested: the claims set forth in the Amended Statement of Claim be denied; costs and expenses and attorney's fees; and such other relief as the Panel deemed just and proper.

In the Counterclaim, Christopher Frattini requested: compensatory damages in the amount of \$50,000.00; punitive damages in an amount of the Panel's discretion; reasonable attorneys' fees and costs; and such other and further relief as the Panel deemed just and proper.

In the Answer to the Counterclaim, Claimant requested that the Counterclaims be summarily dismissed with prejudice; such other and further relief, legal and equitable, including costs, and fees, amply weighted commensurate with the Counterclaim damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant filed a Statement of Claim on November 3, 2020 and an Amended Statement of Claim on November 5, 2020. The original Statement of Claim was not served on Respondents or considered by the Panel.

On December 22, 2020, Respondents filed a Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). On January 22, 2021, Claimant filed a response opposing the Motion to Dismiss. On January 26, 2021, Respondents filed a Reply. Claimant filed a Sur-Reply and Respondents filed a Response to the Sur-Reply. On March 3, 2021, the Panel heard oral arguments on the Motion to Dismiss and, by Order of said date, denied the Motion to Dismiss.

On May 19, 2021, Christopher Frattini filed a Motion for Leave to file Counterclaims. Claimant did not file a response to the motion. By Order dated June 9, 2021, the Panel granted the Motion for Leave to file Counterclaims.

On July 21, 2021, Respondents filed a Motion to Compel Discovery and for Sanctions. On July 22, 2021, Claimant filed a response opposing Respondents' Motion to Compel Discovery and

for Sanctions and Respondents filed a Reply. By Order dated July 23, 2021, the Panel granted Respondents' Motion to Compel Discovery and for Sanctions.

On November 19, 2021, Claimant filed a Motion to Compel Discovery and for Sanctions. On November 24, 2021, Respondents filed a response opposing Claimant's Motion to Compel Discovery and for Sanctions. By Order dated November 24, 2021, the Panel denied Claimant's Motion to Compel Discovery and for Sanctions.

At the conclusion of Claimant's case-in-chief on liability, Respondents made a Motion to Dismiss pursuant to Rule 13504(b) of the Code and Claimant opposed the motion. After due deliberation, the Panel granted Respondents' Motion to Dismiss.

On December 7, 2021, Claimant filed a Motion to Reconsider the Panel's Decision to grant Respondents' Motion to Dismiss. On December 8, 2021, Respondents filed a response opposing Claimant's Motion. On December 13, 2021 Claimant filed a Reply. By Order dated December 13, 2021, the Panel denied Claimant's Motion to Reconsider the Panel's Decision to grant Respondents' Motion to Dismiss. By Order dated December 17, 2021, the Panel issued a revised order denying Claimant's Motion to Reconsider the Panel's Decision to grant Respondents' Motion to Dismiss.

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. Claimant's claims are dismissed with prejudice pursuant to Rule 13504(b) of the Code.
2. Christopher Frattini's Counterclaims are denied.
3. Claimant is liable for and shall pay to Respondents the sum of \$15,000.00 in attorneys' fees pursuant to Rules 13212(a) and 13505 of the Code.
4. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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	= \$ 1,575.00
Counterclaim Filing Fee	= \$ 600.00

**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 persons at the time of the events giving rise to the dispute. Accordingly, as Respondents' former firm, Costal Equities, Inc. is assessed the following:

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

Postponement Fees

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

October 5-8, 2021, postponement requested by Claimant	= \$ 1,125.00
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Total Postponement Fees	= \$ 1,125.00
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The Panel has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

October 5-8, 2021, cancellation requested by Claimant	= \$ 1,800.00
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Total Last-Minute Cancellation Fees	= \$ 1,800.00
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The Panel has assessed the total last-minute cancellation fees to Claimant.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

Four (4) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 800.00
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Claimant submitted two (2) discovery-related motions
Respondents submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees	= \$ 800.00
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The Panel has assessed the total of the discovery-related motion fees to Claimant.

Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one Arbitrator @ \$200.00	= \$ 200.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$ 200.00
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The Panel has assessed the total of the contested motion for issuance of subpoena fees to Claimant.

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
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Pre-Hearing Conference: August 19, 2021 1 session

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
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Pre-Hearing Conferences: March 3, 2021 1 session
October 5, 2021 1 session

Two (2) hearing sessions @ \$1,125.00/session	= \$ 2,250.00
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Hearings: October 4, 2021 1 session
December 1, 2021 1 session

Total Hearing Session Fees	= \$ 4,950.00
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The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

David I. Goldblatt	-	Public Arbitrator, Presiding Chairperson
Elizabeth Gilbert	-	Public Arbitrator
Robert Morris	-	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

David I. Goldblatt

David I. Goldblatt
Public Arbitrator, Presiding Chairperson

12/20/2021

Signature Date

Elizabeth Gilbert

Elizabeth Gilbert
Public Arbitrator

12/20/2021

Signature Date

Robert Morris

Robert Morris
Non-Public Arbitrator

12/20/2021

Signature Date

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December 22, 2021

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