

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Raymond James Financial Services, Inc.

Case Number: 21-00527

vs.

Respondent
Mark Joseph Boucher

Hearing Site: San Diego, California

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 Raymond James Financial Services, Inc. (“Claimant”): Peter S. Fruin, Esq., Maynard, Cooper & Gale P.C., Birmingham, Alabama.

Respondent Mark Joseph Boucher (“Respondent”) did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: February 25, 2021.

Claimant signed the Submission Agreement: February 25, 2021.

Respondent did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted breach of contract as the sole cause of action. The cause of action relates to the Independent Branch Owner Agreement between Claimant and Respondent.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$542,444.83 plus 10.00% interest accruing from the date the expense was incurred;
2. Attorneys’ fees and costs; and
3. Such additional and further relief as may be deemed just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

Respondent did not file a Statement of Answer. The Claim Notification letter dated February 26, 2021, the Overdue Notice (including the Statement of Claim) dated April 20, 2021, and the Notification of Arbitrator dated June 17, 2021 were sent to Respondent by regular mail and FedEx. All regular mail and FedEx mail were returned to FINRA Office of Dispute Resolution Services.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

On August 30, 2021, Claimant requested for Default Proceedings against Respondent, to which no response was filed. Accordingly, the case proceeded with a sole arbitrator under Rule 13801 of the Code.

On that same day, Claimant submitted an affidavit signed by a private investigator attesting to the attempts to locate Respondent. The investigator performed searches of online records available through a licensed database, IRB search LLC, which provides records from numerous sources, including motor vehicle departments, civil court, bankruptcy and property records, and UCC filings. The addresses that the investigator found matched with the addresses used by FINRA Office of Dispute Resolution Services to serve Respondent. Claimant also attempted to serve Respondent in person using a process server. The process server visited the addresses of Respondent and also spoke with Respondent's neighbor concerning Respondent's whereabouts. Despite all these efforts, the investigator and the process server were unable to locate Respondent.

Although the Claim Notification letter, the Overdue Notice, and the Notification of Arbitrator were returned, the Arbitrator found that all reasonable efforts were made to serve Respondent. The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

AWARD

After considering the pleadings, the Arbitrator 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 \$542,444.83 in compensatory damages.

2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 4.25% per annum from March 10, 2020 through and including the date of the issuance of the Award.
3. Respondent is liable for and shall pay to Claimant the sum of \$26,661.49 in attorneys' fees pursuant to § 20 of the Independent Branch Owner Agreement between the parties.
4. 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 = \$ 2,550.00

**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 = \$ 2,475.00
Member Process Fee = \$ 5,075.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,300.00/session = \$ 1,300.00
Pre-Hearing Conference: July 6, 2021 1 session

Decision on the Papers = \$ 300.00

Total Hearing Session Fees = \$ 1,600.00

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

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

ARBITRATOR

Charles Chia-Lin Hsieh

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Sole 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.

Arbitrator's Signature

Charles Chia-Lin Hsieh

Charles Chia-Lin Hsieh
Sole Public Arbitrator

10/29/2021

Signature Date

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October 29, 2021

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