

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Morgan Stanley Smith Barney LLC
Morgan Stanley Smith Barney Financing LLC

Case Number: 23-02105

vs.

Respondent

Joseph Di Peri

Hearing Site: Portland, Oregon

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 and Non-Member vs. Associated Person

REPRESENTATION OF PARTIES

For Claimants Morgan Stanley Smith Barney LLC and Morgan Stanley Smith Barney Financing LLC (collectively, “Claimants”): Haley Morrison, Esq., Tonkon Torp LLP, Portland, Oregon.

Respondent Joseph Di Peri did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: July 28, 2023.

Morgan Stanley Smith Barney LLC signed the Submission Agreement: August 1, 2023.

Morgan Stanley Smith Barney Financing LLC signed the Submission Agreement: August 1, 2023.

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

CASE SUMMARY

In the Statement of Claim, Claimants asserted a cause of action for breach of promissory note dated June 8, 2020 (“Note”). Claimants alleged that Respondent failed to repay the balance of the Note upon the conclusion of Respondent’s employment with Claimants.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Principal balance due and owing under the Note in the amount of \$999,382.69;
2. Accrued pre-termination interest in the amount of \$4,597.43;
3. Past due interest in the amount of \$90.41;
4. Post-termination interest at the default interest rate of 4.5% per annum (\$123.21 per day) due and owing under the Note from the date of default (May 16, 2023) to the date of payment;
5. Costs of collection and of this proceeding including attorneys' fees, FINRA forum fees, and expenses, as agreed to under the terms of the Note; and
6. Any and all further relief that the Arbitrator deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file a Statement of Answer. Accordingly, this matter proceeded pursuant to Rule 13806 of the Code of Arbitration Procedure ("Code").

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

The Arbitrator determined that Respondent was served with the Claim Notification letter dated August 1, 2023 by FedEx, as evidenced by the tracking information available online, and the Overdue Notice (including the Statement of Claim) dated September 21, 2023 by FedEx, as evidenced by the tracking information available online.

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.

The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

AWARD

After considering the pleadings, the Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimants the sum of \$1,004,070.53.
2. Respondent is liable for and shall pay to Claimants interest on the above-stated sum at the rate of \$123.21 per day from May 16, 2023 until the date the Award is paid in full.
3. Respondent is liable for and shall pay to Claimants the sum of \$2,000.00 in attorneys' fees pursuant to the Note.

4. Respondent is liable for and shall pay to Claimants \$1,350.00 to reimburse Claimants for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
5. Respondent is liable for and shall pay to Claimants \$300.00 to reimburse Claimants for the Paper Decision Fee previously paid to FINRA Dispute Resolution Services.
6. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, Claimants have paid to FINRA Dispute Resolution Services the \$2,625.00 Member Surcharge and \$5,225.00 Member Process Fee previously invoiced.

Claimants have also paid to FINRA Dispute Resolution Services the \$1,350.00 non-refundable portion of the filing fee and the \$300.00 Paper Decision Fee.

ARBITRATOR

Joseph C. Roberts

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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

Joseph C. Roberts

Joseph C. Roberts
Sole Public Arbitrator

11/01/2023

Signature Date

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November 02, 2023

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