

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
D.A. Davidson & Co.

Case Number: 23-01475

vs.

Respondent
Kevin Michael Arvoy

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 D.A. Davidson & Co. (“Claimant”): Nancy L. Hendrickson, Esq., D.A. Davidson & Co., Denver, Colorado.

Respondent Kevin Michael Arvoy (“Respondent”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: May 19, 2023.

Claimant signed the Submission Agreement: May 19, 2023.

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

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract-promissory note; unjust enrichment-duplicate bonus payment; breach of contract-company property; and conversion-company property.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: repayment of the outstanding principal balance on the promissory note in the amount of \$154,166.74, together with all accrued interest through the date of the award and post-judgment interest through the date of payment, plus attorneys’

fees and costs; repayment of the \$150,000.00 Duplicate Bonus Payment; that Respondent return the laptop, or in the alternative, unspecified damages for wrongful taking and retention of the laptop; attorneys' fees and costs, including expert witness fees; assessing all filing fees and hearing costs against Respondent; and for such other, further, or different relief as deemed just and proper.

At the hearing, Claimant withdrew its claim for return of the laptop, and instead asked for the sum of \$2,000.00 to be included as part of its compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each 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 Panel on all issues submitted.

Respondent did not file a Statement of Answer. The Panel determined that Respondent was served with the Claim Notification Letter dated May 22, 2023, by regular and FedEx mail, as evidenced by the FedEx tracking information available online, and the Overdue Notice (including the Statement of Claim) dated July 12, 2023, by regular and FedEx mail, as evidenced by the FedEx tracking information available online. The Panel also determined that Respondent was served with the Notification of Panel dated August 10, 2023, by regular and FedEx mail, as evidenced by the FedEx tracking information available online. The Panel also determined that Respondent was served with the Notification of the hearing on September 8, 2023, by regular and FedEx mail.

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

Respondent did not appear at the evidentiary hearing. Upon review of the file, the Panel determined that Respondent received due notice of the hearing and that arbitration of the matter would proceed without Respondent present, in accordance with the Code.

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 \$152,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant the sum of \$156,105.22, together with accrued interest at the rate of \$5.91 per day from November 30, 2023, through date of the award.
3. Respondent is liable for and shall pay to Claimant interest on the sum of \$308,105.22 at the rate of 9% per annum, from date of award until the award is paid in full.
4. Respondent is liable for and shall pay to Claimant the sum of \$4,547.50 in attorneys' fees pursuant to contract provisions in the Promissory Note and Pledge Agreement dated February 1, 2022 (paragraph 7 and 21), Signing Bonus Agreement (paragraph 3) and Confidentiality Agreement (paragraph 12).
5. Respondent is liable for and shall pay to Claimant \$1,000.00 as reimbursement to Claimant for the non-refundable filing 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 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

**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, D.A. Davidson & Co. is assessed the following:

Member Surcharge = \$ 2,025.00

Member Process Fee = \$ 3,875.00

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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00

Pre-Hearing Conference: September 7, 2023 1 session

One (1) hearing session @ \$1,125.00/session

Hearing: November 30, 2023 1 session = \$ 1,125.00

Total Hearing Session Fees	= \$ 2,250.00
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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

Elizabeth Gilbert	-	Public Arbitrator, Presiding Chairperson
Charles Platto	-	Public Arbitrator
Douglas Mark Polley	-	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

Elizabeth Gilbert

Elizabeth Gilbert
Public Arbitrator, Presiding Chairperson

12/11/2023

Signature Date

Charles Platto

Charles Platto
Public Arbitrator

12/11/2023

Signature Date

Douglas Mark Polley

Douglas Mark Polley
Non-Public Arbitrator

12/11/2023

Signature Date

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December 12, 2023

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