

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Charles S. Cook and Barry R. Sorensen as
Managing Members of Sundown RanchLand LLC;
Val H. Bingham and Erin M. Bingham, each
individually; Lared Hansen and Andria Bindham
Hansen as JTWROS

Case Number: 17-03131

vs.

Respondent

Heath Shayne Bowen

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Customers vs. Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Charles S. Cook and Barry R. Sorensen as Managing Members of Sundown RanchLand LLC; Val H. Bingham and Erin M. Bingham, each individually; Lared Hansen and Andria Bindham Hansen as JTWROS, hereinafter collectively referred to as "Claimants": Robert L. Gonser, Esq., Gonser Law PC, Lafayette, California.

For Respondent Heath Shayne Bowen ("Respondent"): Tamara A. Seelman, Esq., Gordon Rees Scully Mansukhani, LLP, Denver, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: November 20, 2017.

Lared Hansen, Andria Bingham Hansen, Barry R. Sorensen, Val H. Bingham and Erin M. Bingham signed Submission Agreements: October 17, 2017.

Charles S. Cook signed the Submission Agreement: November 1, 2017.

Statement of Answer filed by Respondent on or about: January 11, 2018.

Respondent signed the Submission Agreement: February 9, 2018.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; and fraud and deceit based on concealment. The causes of action relate to Claimants' allegation that Respondent breached a FINRA Stipulated Award executed by Respondent on July 17,

2017 (“Stipulated Award”) which the parties entered into in an earlier FINRA Arbitration case.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. An award in favor of Claimants against Respondent in the amount of \$587,500.00 pursuant to the Stipulated Award;
2. Interest at the statutory rate of 10% per year running from the date of default;
3. A specific finding of fraud against Respondent;
4. Costs of the suit;
5. Punitive and/or exemplary damages;
6. Attorneys’ fees and costs; and
7. Additional damages as deemed appropriate and as allowed by law.

In the Statement of Answer, Respondent requested:

1. Dismissal of Claimants’ breach of contract claim and fraud and deceit based on concealment claim;
2. Denial of punitive and exemplary damages;
3. Denial of Claimants’ claim for attorneys’ fees; and
4. Such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 Claimants the sum of \$575,000.00 in compensatory damages. The Panel found that Respondent owed to Claimants a total of \$600,000.00 under the terms of the Stipulated Award and subtracted the amount of \$25,000.00 in payments Respondent has already made to Claimants. Therefore, Respondent owes Claimants a net award of \$575,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants interest on the total of \$575,000.00 at the rate of 4% per annum from August 17, 2017 until the award of \$575,000.00 is paid in full.

3. Respondent is liable for and shall pay to Claimants the sum of \$425.00 as reimbursement for the non-refundable portion of the initial claim filing fee previously paid by Claimants to FINRA Office of Dispute Resolution.
4. Claimants' request for a specific finding of fraud against Respondent is denied.
5. Any and all claims for relief not specifically addressed herein, including punitive and exemplary damages and Claimants' request for attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 1,725.00
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**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 Respondent's firm, Allegis Investment Services, LLC is assessed the following:

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

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that 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: March 5, 2018	1 session

Two (2) hearing sessions @ \$1,300.00/session	= \$ 2,600.00
Hearing Date: May 2, 2018	2 sessions

Total Hearing Session Fees	= \$ 3,900.00
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The Panel has assessed \$3,900.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

George J. Karlsven, Jr.	-	Public Arbitrator, Presiding Chairperson
Elwood C. Avery	-	Public Arbitrator
Daniel M. Yamshon	-	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.

Concurring Arbitrators' Signatures

George J Karlsven, Jr

May 10, 2018

George J. Karlsven, Jr.
Public Arbitrator, Presiding Chairperson

Signature Date

Elwood C. Avery
Public Arbitrator

Signature Date

Daniel M. Yamshon
Public Arbitrator

Signature Date

May 11, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

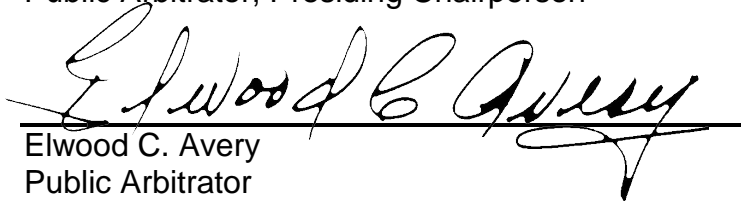
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