

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Eli S. Garza

Case Number: 17-03069

vs.

Respondents
Texas E&P Partners, Inc. and
Mark A. Plummer

Hearing Site: Houston, Texas

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant Eli S. Garza ("Claimant"): Scott L. Silver, Esq., Silver Law Group, Coral Springs, Florida.

For Respondent Texas E&P Partners, Inc. ("Texas E&P") c/o Mark A. Plummer, Custodian, Texas E&P, Richardson, Texas, did not appear.

Respondent Mark A. Plummer ("Plummer") did not appear.

CASE INFORMATION

Statement of Claim filed on or about: November 15, 2017.
Claimant signed the Submission Agreement: November 15, 2017.

Texas E&P did not file a Statement of Answer
Texas E&P did not sign the Submission Agreement.

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

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, negligence and gross negligence, materials misrepresentations and omissions of fact, unsuitable investment recommendations, breach of FINRA Rules, breach of contract, and failure to supervise. The causes of action related to Claimant's investments in oil and gas private placements.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested unspecified compensatory damages, interest, punitive damages, costs, and other appropriate relief.

In the Motion for Default, Claimant specifically requested relief of \$521,000.00, attorneys' fees in the amount of \$173,666.00, punitive damages in the amount of \$1,563,000.00, and other appropriate relief.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

Texas E&P and Plummer did not file with FINRA Office of Dispute Resolution properly executed Submission Agreement, but are required to submit to arbitration pursuant to the Code of Arbitration Procedure (the "Code") and are bound by the determination of the Arbitrator on all issues submitted.

Upon review of the file, the Arbitrator determined that Texas E&P and Plummer have been properly served with the Claim Notification Letter dated November 17, 2017, by certified mail to Texas E&P's corporate address and Plummer's residential address, as evidenced by the signed signature cards on file. The Claim Notification Letter notified Texas E&P and Plummer 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 them from submitting pleadings, selecting arbitrators, and receiving notifications relating to case information and deadlines.

Upon review of the file, the Arbitrator determined that Texas E&P and Plummer have been properly served with the Statement of Claim and Overdue Answer Notice, as well as a Portal Registration Reminder Letter dated January 9, 2018, by certified mail to Texas E&P's corporate address and Plummer's residential address, as evidenced by the signed signature cards on file.

FINRA sent various correspondence to Texas E&P and Plummer between January 9, 2018, and June 20, 2018, by regular mail to Texas E&P's corporate address and Plummer's residential address. That correspondence was not returned.

Claimant filed a Motion for Default Proceedings against Respondents Texas E&P and Plummer ("Motion for Default") on or about May 10, 2018. Neither Texas E&P nor Plummer filed a response to Claimant's Motion for Default.

The Arbitrator further determined that Texas E&P and Plummer have been served with the Motion for Default by regular mail and by certified mail to Texas E&P's corporate address and Plummer's residential address, pursuant to Claimant's Certificate of Service dated May 10, 2018, and that arbitration of the matter would proceed in accordance with Rule 12801 of the Code. Pursuant to Rule 12801, the Chairperson became the sole arbitrator to consider Claimant's Motion for Default.

The Arbitrator Ordered Claimant to provide additional documentation to support his request for damages on or about June 5, 2018. Claimant filed a response to the Arbitrator's Order on or about July 18, 2018.

AWARD

After considering the pleadings, submissions, and Claimant's Motion for Default, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Texas E&P and Plummer are jointly and severally liable for and shall pay to Claimant the sum of \$521,000.00 in compensatory damages.
2. Texas E&P and Plummer are jointly and severally liable for and shall pay to Claimant interest on the above-stated sum at the rate of 6% per annum from and including the service date of this Award, through and including the date this Award is paid in full.
3. Texas E&P and Plummer are jointly and severally liable for and shall pay to Claimant the sum of \$1,000,000.00 in punitive damages pursuant to *Mastrobuono v. Shearson Lehman Hutton, Inc.*, 514 U.S. 52, 64 (1995) and the TEX. CIV. PRAC. & REM. CODE § 41.001(5).
4. Texas E&P and Plummer are jointly and severally liable for and shall pay to Claimant the sum of \$300.00 in costs as reimbursement for the non-refundable portion of Claimant's filing fees.
5. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
6. Any and all claims for relief not specifically addressed herein, including 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	= \$ 1,575.00
--------------------------	---------------

**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, Texas E&P is assessed the following:

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

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(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 @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: March 14, 2018 1 session	

<u>Decision on the papers:</u>	<u>= \$ 300.00</u>
Total Hearing Session Fees	= \$ 1,425.00

The Arbitrator has assessed \$1,425.00 of the hearing session fees jointly and severally to Texas E&P and Plummer.

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

ARBITRATOR

William R. Jonson

-

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

/s/ William R. Jonson

William R. Jonson
Sole Public Arbitrator

07/03/2018

Signature Date

07/05/2018

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATOR

William R. Jonson

-

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



Signed by: William R. Jonson
Date: 2018.07.03 17:12:39 --5

William R. Jonson
Sole Public Arbitrator

Signature Date

Date of Service (For FINRA Office of Dispute Resolution office use only)