

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant  
Francis Joseph Aiello

Case Number: 16-00597

vs.

Respondent  
Citizens Securities, Inc.

Hearing Site: Pittsburgh, Pennsylvania

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant Francis Joseph Aiello: Stuart D. Meissner, Esq., Meissner Associates, Nyack, New York.

For Respondent Citizens Securities, Inc.: David L. Ward, Esq., Greenberg Traurig, LLP, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: February 29, 2016.  
Answer to Counterclaim filed on or about: May 10, 2016.  
Claimant signed the Submission Agreement: February 29, 2016.

Statement of Answer and Counterclaim filed by Respondent on or about: April 22, 2016.  
Respondent signed the Submission Agreement: April 8, 2016.

**CASE SUMMARY**

Claimant asserted the following causes of action: violation of implied covenant of good faith and fair dealing and breach of contract; negligent/intentional misrepresentation and non-disclosure; and fraudulent inducement and fraud. The causes of action relate to Claimant's allegations that Respondent used fraudulent and misleading recruitment practices to solicit Claimant to work for Respondent.

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

Respondent asserted the following cause of action in its Counterclaim: breach of promissory note. The cause of action relates to Respondent's allegation that Claimant failed to repay a promissory note that became due upon termination of Claimant's employment with Respondent.

Unless specifically admitted in the Answer to Counterclaims, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages of \$3,400,000.00, rescission, punitive damages, costs, and interest.

In the Statement of Answer, Respondent requested dismissal of claims and an award of costs, attorneys' fees, and any additional just and equitable relief.

In the Counterclaim, Respondent requested compensatory damages of \$220,000.00, interest, costs, attorneys' fees, and any additional just and equitable relief.

At the close of the hearing, Claimant requested between \$1,000,000.00 and \$5,000,000.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

Claimant filed a Motion to Compel and Demand for Sanctions on or about October 25, 2016. Respondent filed a Response to Claimant's Motion to Compel and Demand for Sanctions on or about November 4, 2016. Claimant filed a Reply in support of his Motion to Compel and Demand for Sanctions on or about November 7, 2016. The Chairperson held a Pre-Hearing Discovery Conference Call on December 20, 2016, to decide Claimant's Motion to Compel and Demand for Sanctions. In its Order dated December 21, 2016, the Panel granted Claimant \$5,000.00 in sanctions plus interest at a rate of 6% per annum from and including January 21, 2017, through and including the date the sanctions are paid in full.

Claimant renewed his Demand for Sanctions at hearing due to Respondent's alleged failure to comply. The Panel grants Claimant's renewed Demand for Sanctions herein.

The parties present at the hearing 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, and 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 Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello for the sum of \$1,500,000.00 in compensatory damages.

2. Claimant Francis Joseph Aiello is liable for and shall pay to Respondent Citizens Securities, Inc. for the sum of \$220,000.00 in compensatory damages.
3. The above amounts are offset. Respondent Citizens Securities, Inc. is, therefore, liable for and shall pay to Claimant Francis Joseph Aiello the sum of \$1,280,000.00 in compensatory damages.
4. Respondent Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello for the sum of \$168,410.96 in pre-award interest representing 6% interest per annum on the compensatory damages in paragraph 1, from and including August 3, 2015, through and including June 16, 2017.
5. Claimant Francis Joseph Aiello is liable for and shall pay to Respondent Citizens Securities, Inc. for the sum of \$7,030.54 in pre-award interest on the compensatory damages in paragraph 2 representing 1.77% interest per annum, from and including August 27, 2015, through and including December 1, 2015, then 5% interest per annum, through and including June 16, 2017.
6. The above amounts are offset. Respondent Citizens Securities, Inc. is, therefore, liable for and shall pay to Claimant Francis Joseph Aiello the sum of \$161,380.42 in pre-award interest.
7. Respondent Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello post-award interest on the above-stated sum of compensatory damages in paragraph 3 at the rate of 6% per annum, from and including June 17, 2017, through and including the date this Award is paid in full.
8. Respondent Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello the sum of \$600.00 as reimbursement for the non-refundable portion of Claimant Francis Joseph Aiello's filing fee.
9. Respondent Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello the sum of \$5,000.00 in sanctions in resolution of Claimant's Demand for Sanctions and the sum of \$3,000.00 in sanctions in resolution of Claimant's renewed Demand for Sanctions.
10. Respondent Citizens Securities, Inc. is liable for and shall pay to Claimant Francis Joseph Aiello interest on the above-stated sum of sanctions in paragraph 9 at the rate of 6% per annum, from and including December 21, 2016, through and including the date this Award is paid in full.
11. Any and all claims for relief not specifically addressed herein, including punitive damages and 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	=\$ 2,000.00
Counterclaim 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, Citizens Securities, Inc. is assessed the following:

Member Surcharge	=\$ 3,025.00
Member Process Fee	=\$ 6,175.00

### Contested Motion for Issuance of Subpoena Fee

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one arbitrator @ \$250.00	=\$ 250.00
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Total Contested Motion for Issuance of Subpoena Fee	=\$ 250.00
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The Panel has assessed \$250.00 of the contested motion for issuance of subpoenas fees to Citizens Securities, Inc.

### 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:

Three (3) pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 1,350.00

Pre-hearing conferences:	December 20, 2016	1 session
	March 7, 2017	1 session
	April 28, 2017	1 session

Two (2) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 2,800.00

Pre-hearing conferences:	August 23, 2016	1 session
	June 12, 2017	1 session

Eight (8) hearing sessions @ \$1,400.00/session			= \$ 11,200.00
Hearing Dates:	June 13, 2017	2 sessions	
	June 14, 2017	2 sessions	
	June 15, 2017	2 sessions	
	June 16, 2017	2 sessions	
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Total Hearing Session Fees			= \$ 15,350.00

The Panel has assessed \$15,350.00 of the hearing session fees to Citizens Securities, Inc.

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

**ARBITRATION PANEL**

Jay H. Feldstein	-	Public Arbitrator, Presiding Chairperson
Miles David Braverman	-	Public Arbitrator
David M. Panko	-	Non-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**

/s/ Jay H. Feldstein  
Jay H. Feldstein  
Public Arbitrator, Presiding Chairperson

July 12, 2017  
Signature Date

/s/ Miles David Braverman  
Miles David Braverman  
Public Arbitrator

July 12, 2017  
Signature Date

/s/ David M. Panko  
David M. Panko  
Non-Public Arbitrator

July 12, 2017  
Signature Date

July 13, 2017  
Date of Service (For FINRA Office of Dispute Resolution office use only)

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Jay H. Feldstein  
Public Arbitrator, Presiding Chairperson

**7/12/2017**

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Signature Date

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Public Arbitrator

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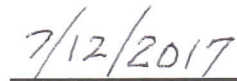
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