

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

William Francis Garbarino

Case Number: 09-04736

vs.

Respondents

Raymond James Financial Services, Inc.  
Nutmeg Investment Group  
Charles Meade  
Frank Gavel, Jr.

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Associated Person vs. Member, Non-Member, and Associated Persons.

**REPRESENTATION OF PARTIES**

For Claimant William Francis Garbarino: Elisabeth Seieroe Maurer, Esq. and Christopher Avcolle, Esq., Maurer & Associates PC., Ridgefield, Connecticut.

For Respondent Raymond James Financial Services, Inc. ("RJFS"): David A. Gehn, Esq. and Matthew B. Baum, Esq., Gusrae, Kaplan, Bruno & Nusbaum PLLC, New York, New York.

For Respondents Nutmeg Investment Group ("Nutmeg"), Charles Meade ("Meade"), and Frank Gavel, Jr. ("Gavel"): Thomas J. Finn, Esq. and Paula Cruz Cedillo, Esq. McCarter & English LLP, Hartford, Connecticut. Nutmeg, Meade, and Gavel are hereinafter collectively referred to as "the Nutmeg Respondents".

**CASE INFORMATION**

Statement of Claim filed on or about: August 11, 2009.

Amended Statement of Claim filed on or about: September 13, 2010.

Answer to Counterclaim filed on or about: December 7, 2009.

Claimant signed the Submission Agreement: June 9, 2009.

Amended Statement of Answer filed by Respondent RJFS, on or about: September 23, 2010

Respondent RJFS signed the Submission Agreement: October 4, 2010.

Joint Statement of Answer and Counterclaim filed by Respondents Nutmeg, Meade, and Gavel on or about: October 28, 2009.

Joint Answer to the Amended Statement of Claim and Re-Stated Counterclaim filed by Respondents Nutmeg, Meade, and Gavel on or about: September 16, 2010.

Respondent Nutmeg signed the Submission Agreement: October 27, 2009.

Respondent Meade signed the Submission Agreement: October 27, 2009.

Respondent Gavel signed the Submission Agreement: October 27, 2009.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract, tortious interference with business relationship, and defamation.

Unless specifically admitted in their Answer to the Statement of Claim, the Nutmeg Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Amended Statement of Claim, Claimant asserted the following causes of action: breach of contract, breach of implied covenant of good faith and fair dealing, tortious interference with business relationships, defamation, violation of the Connecticut Unfair Trade Practices Act, conversion, statutory theft, and RICO violations.

At the close of hearing, Claimant withdrew the claims for defamation, conversion, and RICO violations against Respondent Nutmeg. He also withdrew the claim for RICO violations against Respondent RJFS.

Unless specifically admitted in their Answers to the Amended Statement of Claim, the Respondents denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

In the Counterclaims and Re-Stated Counterclaims, the Nutmeg Respondents asserted the following causes of action: defamation of character and breach of contract.

Unless specifically admitted in his Answer, Claimant denied the allegations made in the Counterclaims.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested damages in excess of \$500,000.00.

In the Amended Statement of Claim, Claimant requested unspecified damages plus interest, punitive damages, attorneys' fees, costs, and such other and further relief as deemed just, proper, or equitable.

Respondent RJFS requested that Claimant's claims be dismissed, attorneys' fees, costs, and such other and further relief as deemed just and proper.

The Nutmeg Respondents requested that Claimant's claims be denied, unspecified compensatory damages, punitive damages, attorneys' fees, costs, and such other relief as deemed just and proper.

Claimant requested that the Nutmeg Respondents' Counterclaim be denied.

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

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

At the conclusion of Claimant's case-in-chief, Respondent RJFS made a Motion to Dismiss. After due deliberation, the Panel denied the Motion.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Nutmeg, Meade, and Gavel are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$3,700.00 plus interest at a rate of 10% per annum, accruing from 30 days after the date of the award until the award is paid in full.
2. Respondents Nutmeg, Meade, and Gavel are jointly and severally liable for and shall pay to Claimant attorneys' fees in the amount of \$60,000.00. The Panel awarded attorneys' fees pursuant to the terms of the parties' agreement.
3. Claimant is liable for and shall pay to Respondent Meade compensatory damages in the amount of \$5,000.00 plus interest at a rate of 10% per annum, accruing from 30 days after the date of the award until the award is paid in full.
4. Claimant is liable for and shall pay to Respondent Meade punitive damages in the amount of \$225,000.000. The Panel awarded punitive damages pursuant to Connecticut law which authorizes punitive damages in a case of malicious defamation. The award of punitive damages takes the form of attorneys' fees.
5. Claimant is liable for and shall pay to Respondent Nutmeg attorneys' fees in the amount of \$750,000.00. The Panel awarded attorneys' fees pursuant to the terms of the parties' agreement
6. Claimant is liable for and shall pay to Respondent RJFS attorneys' fees in the amount of \$108,943.94. The Panel awarded attorneys' fees pursuant to the terms of the parties' agreement.
7. Claimant's claims against Respondent RJFS are denied in their entirety.

8. Respondent Nutmeg's Counterclaim is denied in its entirety.
9. Respondent Gavel's Counterclaim is denied in its entirety.
10. Any and all relief not specifically addressed herein is denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

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

Initial Claim Filing Fee	=\$ 1,425.00
Counterclaim Filing Fee	=\$ 1,250.00

*\*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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, Raymond James Financial Services, Inc. is assessed the following:

Member Surcharge	=\$ 1,700.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 2,750.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 9-11, 16, 18, 20, 23-24, 2011, adjournment by the parties	= \$ 1,000.00
August 15-19, 2011, adjournment by Respondents	= \$ 1,000.00
May 10, 11, & 14-18, 2012, adjournment by Claimant	WAIVED
June 13, 15, & 18, 2012 adjournment by the Nutmeg Respondents	= \$ 1,000.00
March 20 & 21, 2013, adjournment by Claimant	WAIVED
April 15, 16, & 18, 2013, adjournment by Claimant	WAIVED
March 24 & 25, 2014, adjournment by Claimant	= \$ 1,000.00
<b>Total Adjournment Fees</b>	<b>= \$ 4,000.00</b>

1. The Panel has assessed \$2,000.00 adjournment fees to Claimant
2. The Panel has assessed \$2,000.00 adjournment fees jointly and severally to Respondents.

#### Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

March 20 & 21, 2013, adjournment by Claimant	WAIVED
April 15, 16, & 18, 2013, adjournment by Claimant	WAIVED

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

Two (2) Decisions on discovery-related motions on the papers	
With one (1) Arbitrator @ \$200.00	= \$ 400.00
Claimant submitted (1) discovery-related motion	
Respondents submitted (1) discovery-related motion	
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Total Discovery-Related Motion Fees	= \$ 400.00

1. The Panel has assessed \$300.00 of the discovery-related motion fees to Claimant.
2. The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Respondents.

**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, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00		= \$ 2,250.00
Pre-hearing conferences:	January 26, 2010	1 session
	August 12, 2010	1 session
Two (2) Pre-hearing sessions with the Panel @ \$1,000.00		= \$ 2,000.00
Pre-hearing conferences:	October 20, 2010	1 session
	May 20, 2011	1 session
Seventy-six (76) Hearing sessions @ \$1,000.00		= \$76,000.00
Hearing Date(s):	January 9, 2012	2 sessions
	January 10, 2012	2 sessions
	January 11, 2012	2 sessions
	January 12, 2012	2 sessions
	January 13, 2012	1 session
	December 17, 2012	2 sessions
	December 18, 2012	2 sessions
	December 19, 2012	2 sessions
	December 20, 2012	2 sessions
	December 21, 2012	2 sessions
	January 3, 2013	2 sessions
	March 18, 2013	2 sessions
	March 19, 2013	2 sessions
	May 23, 2013	2 sessions
	May 24, 2013	2 sessions
	May 28, 2013	2 sessions
	May 29, 2013	2 sessions
	May 30, 2013	2 sessions
	May 31, 2013	1 session

August 12, 2013	2 sessions
August 13, 2013	2 sessions
August 15, 2013	2 sessions
August 16, 2013	2 sessions
August 26, 2013	2 sessions
December 09, 2012	2 sessions
December 10, 2012	2 sessions
December 11, 2012	2 sessions
December 12, 2012	2 sessions
December 13, 2012	2 sessions
January 6, 2012	2 sessions
January 7, 2012	2 sessions
January 8, 2012	2 sessions
January 9, 2012	2 sessions
May 7, 2013	2 sessions
May 8, 2013	2 sessions
May 9, 2013	2 sessions
May 13, 2013	2 sessions
May 14, 2013	2 sessions
May 15, 2013	2 sessions

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Total Hearing Session Fees = \$80,250.00

1. The Panel has assessed \$60,187.50 of the hearing session fees to Claimant.
2. The Panel has assessed \$20,062.50 of the hearing session fees jointly and severally to Respondents.


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

**ARBITRATION PANEL**

Lewis S. Kurlantzick	-	Public Arbitrator, Presiding Chairperson
Stewart F. Kleinman	-	Public Arbitrator
Marissa A. Santangelo	-	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

  
\_\_\_\_\_  
Lewis S. Kurlantzick  
Public Arbitrator, Presiding Chairperson

11/5/14  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Stewart F. Kleinman  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Marissa A. Santangelo  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

**November 6, 2014**  
\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution office use only)

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Non-Public Arbitrator

11-2-2014  
\_\_\_\_\_  
Signature Date

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