

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Denise A Badgerow

Case Number: 16-02759

vs.

Respondents
Ameriprise Financial Services, Inc.
Thomas James Meyer
Ray Anthony Trosclair
Gregory Alan Walters

Hearing Site: New Orleans, Louisiana

Counter-Claimants
Thomas James Meyer
Ray Anthony Trosclair
Gregory Alan Walters

vs.

Counter-Respondent
Denise A. Badgerow

Nature of the Disputes: Associated Person vs. Member and Associated Persons
Associated Persons vs. Associated Person

REPRESENTATION OF PARTIES

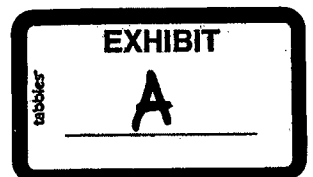
For Claimant/Counter-Respondent Denise A Badgerow ("Claimant"): Amanda J. Butler, Esq., Business Law Group, New Orleans, Louisiana.

For Respondent Ameriprise Financial Services, Inc. ("Ameriprise"): Melissa Raphan, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota.

For Respondents/Counter-Claimants Ray Anthony Trosclair ("Trosclair") and Gregory Alan Walters ("Walters"): Claude F. Reynaud, Jr., Esq., Breazeale, Sachse & Wilson, L.L.P., Baton Rouge, Louisiana.

For Respondent/Counter-Claimant Thomas James Meyer ("Meyer"): Thomas A. Roberts, Esq., Bressler, Amery & Ross, P.C., New York, New York.

Hereinafter, Trosclair, Walters and Meyer are collectively referred to as the "Individual Respondents."



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CASE INFORMATION

Statement of Claim filed on or about: September 18, 2016.
Statement of Answer to the Counterclaim filed by Claimant on or about: January 23, 2017.
Second Amended and Restated Statement of Claim filed on or about: June 22, 2018.
Claimant signed the Submission Agreement: September 14, 2016.

Statement of Answer filed by Ameriprise on or about: December 9, 2016.
Ameriprise signed the Submission Agreement: December 9, 2016.

Statement of Answer and Counterclaim filed by the Individual Respondents on or about: December 8, 2016.
Individual Respondents signed a Submission Agreement: December 8, 2016.

CASE SUMMARY

Claimant asserted the following causes of action: non-party REJ Properties, Inc. d/b/a Walters, Meyer, Trosclair & Associates' ("Company") unwritten compensation agreement and payment method of commissions violated SEC and FINRA regulations; Claimant was fired in retaliation for reporting the Individual Respondents' conduct to Ameriprise in violation of Louisiana Law; non-party Company tortiously interfered with Claimant's employment agreement; and Claimant's employment agreement's non-compete and non-solicitation provisions are invalid and non-party Company tortiously interfered with Claimant's book of business after wrongful termination in violation of Louisiana's Unfair Trade Practices & Consumer Protection Law ("LUPTA"). In Claimant's Second Amended and Restated Statement of Claim, she added as a cause of action that Ameriprise was a joint employer and is jointly and severally liable for the actions of the Individual Respondents and non-party Company. The causes of action relate to Claimant's allegations that she was involuntarily terminated from her employment with non-party Company, a franchise of Ameriprise.

Unless specifically admitted in their respective Statements of Answer, Ameriprise and the Individual Respondents denied the allegations made in the Statement of Claim. In their Counterclaim, the Individual Respondents asserted the following causes of action: breach of contract and violation of the Louisiana Trade Secrets Act.

Unless specifically admitted in the Statement of Answer to the Counterclaim, Claimant denied the allegations made in the Counterclaim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Back pay from non-party Company in an amount to be determined based upon prior compensation and commissions, including \$75,000.00 for the change in Claimant's pay without a proper record of such compensation arrangement, as required by FINRA and SEC law;
2. Front pay damages for the period of time Claimant was unemployed together with damages in lieu of Claimant's right of reinstatement of her employment and

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- loss of 401K matching benefits, in an amount to be determined based upon prior compensation and commissions and benefits, estimated to be \$350,000.00 for a period of three (3) years from the date of termination;
3. Treble damages under LUPTA in an amount of \$1,125,000.00 for non-party Company and Walters tortiously interfering with Claimant's book of business by instructing her she could not contact her clients or keep her book of business if she was ever terminated by non-party Company even though such non-compete and non-solicitation provisions of the employment agreement were invalid under Louisiana law;
 4. Attorneys' fees and costs relating to sustaining this action, which amounts shall be determined at the conclusion, but total \$55,000.00 to date; and
 5. Any other amounts as may be determined after review of Claimant's compensation and benefits, including any amounts for nonpayment of overtime wages earned under the Fair Labor Standards Act.

In the Statement of Answer, Ameriprise requested:

1. Claimant's claims be dismissed in their entirety;
2. Costs and attorneys' fees incurred in defending this matter; and
3. All further relief as the Panel deems just and proper.

In the Statement of Answer and Counterclaim, the Individual Respondents requested:

1. Claimant's claims be denied;
2. Individual Respondents' Counterclaim be granted in an amount of damages to be proved at the arbitration hearing;
3. Judicial interest from the date of demand;
4. Attorneys' fees pursuant to La. R.S. 51:1409A; and
5. Any additional relief that the Panel may deem just and appropriate.

In the Statement of Answer to the Counterclaim, Claimant requested that costs and attorneys' fees relating to the Counterclaim be assessed to the Individual Respondents.

In the Second Amended and Restated Statement of Claim, Claimant requested:

1. The same relief requests as 1-5 in the Statement of Claim; and
2. Declaratory judgment that Ameriprise's conduct in this matter created a joint employer relationship with non-party Company.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 5, 2018, Walters, Trosclair and non-party Company submitted a Motion to Dismiss. On February 19, Claimant submitted an opposition to the Motion to Dismiss and a Motion for Monetary Penalties and Sanctions for filing the Motion to Dismiss. On February 23, Walters and Trosclair submitted a reply in further support of their motion. On February 26, Walters and Trosclair submitted an opposition to Claimant's Motion for Monetary Penalties and Sanctions. On March 23, Walters and Trosclair requested that the Panel cancel the April 2 pre-hearing conference scheduled to hear oral argument on their Motion to Dismiss and instead decide the motion after Claimant presents her case-

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in-chief during the evidentiary hearing. On March 28, Claimant submitted an objection to Walters and Trosclair's request to cancel the April 2 pre-hearing conference.

On January 31, 2018, Claimant submitted a Motion to Amend the Statement of Claim. On February 9, Walters, Trosclair and non-party Company submitted an opposition to Claimant's motion. On February 12, Ameriprise submitted an opposition to Claimant's motion and a reply to Walters and Trosclair's opposition brief.

On April 2, 2018, the Panel and parties held a pre-hearing conference so the parties could present oral argument on Walters and Trosclair's Motion to Dismiss and Claimant's Motion to Amend the Statement of Claim, among other matters. By Order dated that same day, the Panel, among other matters, deferred oral argument on the Motion to Dismiss until the evidentiary hearing and granted Claimant's Motion to Amend the Statement of Claim to the following extent:

- a. Claimant is allowed to amend her claim to add the joint employer claim consistent with the Order of the Federal District Court for the Eastern District of Louisiana; and
- b. Any oppositions to the amended claim by the Individual Respondents and Ameriprise should be filed within twenty (20) days of the date of this Order.

In accordance with the Panel's April 2, 2018 Order, on April 13, 2018 Claimant submitted an Amended and Restated Statement of Claim wherein she added as a cause of action that Ameriprise was a joint employer and is jointly and severally liable for the actions of the Individual Respondents and non-party Company and requested declaratory judgment that Ameriprise's conduct in this matter created a joint employer relationship with non-party Company. Claimant also alleged that in 2015 she was subjected to harassment that was so severe by Meyers and his team that she sought medical attention.

On April 20, 2018, Ameriprise submitted an objection to Claimant's Amended and Restated Statement of Claim. Ameriprise objected to Claimant's request for declaratory judgment that Ameriprise's conduct created a joint employer relationship with non-party Company. On April 24, Claimant submitted a response in further support of her Amended and Restated Statement of Claim.

On April 30, 2018, Meyer submitted a request for an order of production to compel Claimant to provide authorizations for the release of her medical records. On May 1, Claimant submitted an objection to Meyer's request. On May 2, Meyer submitted a reply in further support of his request. On May 2, 2018, the Panel granted Meyer's order for production. On May 8, Meyer submitted a request for clarification on the order for production. Claimant did not submit a response. On June 6, the Chairperson and parties held a pre-hearing conference so the parties could present oral argument on Meyer's order for production. By Order dated June 8, 2018, the Panel advised that Claimant reaffirmed her objection to Meyer's order of production and stated that she would withdraw the allegation at issue. Therefore, the Panel ruled that in view of Claimant's willingness to withdraw the allegation, the claim is hereby amended to remove the allegation regarding medical attention.

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On June 22, 2018, Claimant filed a Second Amended and Restated Statement of Claim in accordance with the Panel's June 8, 2018 Order and it became part of the record.

The case proceeded to hearing on August 27 and 28, 2018. After the close of Claimant's case, Ameriprise and Meyer made oral motions to dismiss, and Walters and Trosclair renewed their motion to dismiss. Claimant opposed all motions. After hearing arguments of counsel, the Panel granted Ameriprise's motion to dismiss on the basis that Claimant failed to prove Ameriprise was a "joint employer." The Individual Respondents' motions to dismiss were deferred pending additional briefing by the parties.

On October 4, 2018, the Individual Respondents submitted a joint supplemental memorandum in support of their respective motions to dismiss. On October 18, Claimant submitted an opposition to the Individual Respondents' motions to dismiss. On November 6, the Individual Respondents submitted a joint reply in further support of their motions to dismiss. On November 16, Claimant filed a sur-reply brief in opposition to the Individual Respondents' motions to dismiss.

On November 20, 2018, the Panel and the Individual Respondents held a recorded in-person conference to hear the parties' oral argument on the Individual Respondents' motions to dismiss. The Individual Respondents argued that Claimant's theories of recovery were legally and/or factually without merit. Claimant opposed the motions to dismiss. After due deliberation, the Panel granted the Individual Respondents' motions to dismiss and found that Claimant did not: 1) establish liability for the Individual Respondents under the Louisiana Whistleblower Act; 2) prove a tortious interference with contract claim against the Individual Respondents; and 3) prove any claim against the Individual Respondents under the Louisiana Unfair Trade Practice Act or establish any other basis for recovery under the Amended and Restated Statement of Claim.

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 evidentiary hearing and conference on the Individual Respondents' motions to dismiss, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed with prejudice.
2. The Individual Respondents' Counterclaim is denied in its entirety.
3. 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:

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Filing Fees

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

Initial Claim Filing Fee	= \$ 2,000.00
Counterclaim Filing Fee	= \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Office of Dispute Resolution preliminarily deferred the initial filing fee. At the conclusion of this matter, the Panel determined to waive the \$600.00 non-refundable portion of the filing fee.

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 a party, Ameriprise is assessed the following:

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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 6 – 9, 2018, postponement by Ameriprise	= WAIVED
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Discovery-Related Motion Fee

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

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 200.00
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Meyers submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to the Individual 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences: February 23, 2018	1 session
June 6, 2018	1 session

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Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session		= \$ 5,600.00
Pre-hearing conferences:		
March 6, 2017	1 session	
April 2, 2018	1 session	
August 24, 2018	1 session	
November 20, 2018	1 session	
Five (5) hearing sessions @ \$1,400.00/session		= \$ 7,000.00
Hearing Dates:		
August 27, 2018	3 sessions	
August 28, 2018	2 sessions	
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Total Hearing Session Fees		= \$13,500.00

The Panel has assessed \$13,500.00 of the hearing session fees jointly and severally to the Individual Respondents.

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


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ARBITRATION PANEL

James L. Warren, III	-	Public Arbitrator, Presiding Chairperson
Mario Alberto Arteaga, Jr.	-	Public Arbitrator
Joseph Michael Prisco, Jr.	-	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



James L. Warren, III
Public Arbitrator, Presiding Chairperson

12/27/2018
Signature Date

Mario Alberto Arteaga, Jr.
Public Arbitrator

Signature Date

Joseph Michael Prisco, Jr.
Non-Public Arbitrator

Signature Date

December 28, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)

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James L. Warren, III	-	Public Arbitrator, Presiding Chairperson
Mario Alberto Arteaga, Jr.	-	Public Arbitrator
Joseph Michael Prisco, Jr.	-	Non-Public Arbitrator

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James L. Warren, III
Public Arbitrator, Presiding Chairperson

Signature Date

Mario Alberto Arteaga, Jr.

Mario Alberto Arteaga, Jr.
Public Arbitrator

12/27/18

Signature Date

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Non-Public Arbitrator

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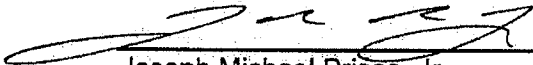
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