

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

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In the Matter of the Arbitration Between:

Claimant  
Steven P. Marcelli

Case Number: 16-00181

vs.

Respondents  
Robert S. Rownd and  
LPL Financial, LLC

Hearing Site: Cleveland, Ohio

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

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Steven P. Marcelli ("Claimant" or "Marcelli"): Edmond J. Mack, Esq. and Brandon O. Trent, Esq., Tzangas Plakas Manno, Ltd., Canton, Ohio.

For Respondents Robert S. Rownd ("Rownd") and LPL Financial, LLC ("LPL"), hereinafter collectively referred to as "Respondents": Scott Matasar, Esq. and Shipra Kumar, Esq., Matasar Jacobs, LLC, Cleveland, Ohio and Thomas Barnett, Esq., LPL Financial, LLC, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: January 14, 2016.  
Marcelli signed the Submission Agreement: December 21, 2015.

Statement of Answer filed jointly by Respondents on or about: April 14, 2016.  
Rownd signed the Submission Agreement: March 23, 2016.  
LPL signed the Submission Agreement: August 10, 2016.

**CASE SUMMARY**

Claimant asserted the following cause of action: breach of fiduciary duty. Claimant alleged that Rownd and LPL breached their fiduciary obligations by providing poor investment advice to Claimant and that Rownd ignored his obligations by covertly meeting with an adverse attorney for the purpose of encouraging litigation against Claimant. Claimant further alleged that this litigation, which resulted in damages to Claimant, challenged the propriety of the same investment strategies that Rownd himself helped to develop and execute.

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

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

|                                     |              |
|-------------------------------------|--------------|
| Compensatory Damages (in excess of) | \$130,000.00 |
| Punitive Damages                    | Unspecified  |
| Interest                            | Unspecified  |
| Attorneys' Fees                     | Unspecified  |
| Costs                               | Unspecified  |
| Other Monetary Relief               | Unspecified  |
| Other Non-Monetary Relief           | Disgorgement |

At the close of the hearing, Claimant's final damage request was expressed as a range between \$10,000.00 to \$389,000.00, plus unspecified amounts for punitive damages, attorneys' fees, pre- and post-award interest, arbitration costs, and fees.

In the Statement of Answer, Respondents requested that the Panel dismiss Claimant's claim in its entirety and recommend the expungement of all references to this matter from Rownd's registration records maintained by the Central Registration Depository ("CRD"), and grant any other, further and different relief as the Panel may deem appropriate.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

On or about December 16, 2016, Respondents filed Motions for Leave to Call Robert Weitendorf and John R. Werren Telephonically ("Motions for Telephonic Testimony"). On or about December 21, 2016, Respondents filed a Supplement to the Motions for Telephonic Testimony. On or about December 27, 2016, Claimant filed an Opposition to the Motions for Telephonic Testimony. On or about December 27, 2016, Respondents filed a Reply in Support of the Motions for Telephonic Testimony. At the hearing, the parties orally presented their positions on the Motions for Telephonic Testimony and the Panel granted the Motions. Mr. Weitendorf testified telephonically at the hearing. Mr. Werren was never called to testify.

After Claimant's case-in-chief, Respondents made an oral Motion to Dismiss. The Claimant orally opposed the Motion to Dismiss. The Panel denied the Motion to Dismiss.

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. Claimant's claims, each and all, are denied.
2. Respondent Rownd's request for expungement of his CRD records is denied.
3. Other than forum fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
4. Any and all claims for relief not specifically addressed herein, including punitive damages and attorneys' fees, are denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

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

Initial Claim Filing Fee = \$ 1,425.00

*\*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, LPL Financial, LLC is assessed the following:

Member Surcharge = \$ 1,700.00  
Member Process Fee = \$ 3,250.00

**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 arbitrators, including a pre-hearing conference with the arbitrators, 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: June 6, 2016 1 session

Four (4) hearing sessions @ \$1,125.00/session = \$ 4,500.00  
Hearing Dates: January 4, 2017 2 sessions  
January 5, 2017 2 sessions

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Total Hearing Session Fees = \$ 5,625.00

The Panel has assessed \$2,812.50 of the hearing session fees to Claimant Steven P. Marcelli.

The Panel has assessed \$2,812.50 of the hearing session fees jointly and severally to Respondents Robert S. Rownd and LPL Financial, LLC.

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

**ARBITRATION PANEL**

|                      |   |  |
|----------------------|---|--|
| Jeffrey M. Bain      | - | Public Arbitrator, Presiding Chairperson |
| Ellen Holland Keller | - | Public Arbitrator                        |
| William Joseph Baker | - | 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/ Jeffrey M. Bain  
Jeffrey M. Bain  
Public Arbitrator, Presiding Chairperson

January 24, 2017  
Signature Date

/s/ Ellen Holland Keller  
Ellen Holland Keller  
Public Arbitrator

January 24, 2017  
Signature Date

/s/ William Joseph Baker  
William Joseph Baker  
Non-Public Arbitrator

January 23, 2017  
Signature Date

January 24, 2017  
Date of Service (For FINRA Office of Dispute Resolution office use only)

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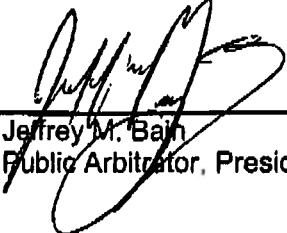
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