

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Heath Marell
Susan Marell
James Marell

Case Number: 16-00955

vs.

Respondents

Mark Allan Plummer
Texas E&P Partners, Inc.

Hearing Site: Washington, D.C.

Nature of the Dispute: Customers vs Associated Person and Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Heath Marell, Susan Marell, and James Marell: Matt Simmons, Esq., Law Offices of Matt Simmons, Esq., Rockville, Maryland.

For Respondents Mark Allan Plummer and Texas E&P Partners, Inc.: Charles W. Gameros, Jr., P.C., Hoge & Gameros, L.L.P., Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: March 28, 2016.

Heath Marell signed the Submission Agreement: May 26, 2016.

James Marell signed the Submission Agreement: May 29, 2016.

Susan Marell signed the Submission Agreement: May 31, 2016.

Joint Statement of Answer filed by Respondents on or about: July 28, 2016.

Mark Allan Plummer signed the Submission Agreement: July 27, 2016.

Texas E&P Partners, Inc. signed the Submission Agreement: July 27, 2016.

CASE SUMMARY

Claimants asserted the following causes of action: omission of facts, breach of contract, failure to pay dividends, failure to supervise, negligence, failure to execute, intentional fraud, deceit and misrepresentation.

The causes of action relate to Chestnut GEB Joint Venture and Chestnut 2007 4x4 Joint Venture.

Unless specifically admitted in the 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, Claimants requested compensatory damages in the amount of \$338,549.00, interest in the amount of \$425,878.00, punitive damages in the amount of \$200,000.00, and attorneys' fees in the amount of \$25,000.00.

In the Statement of Answer, Respondents requested dismissal of the Statement of Claim, assessment of all forum fees against Claimants, attorneys' fees, and for all other relief to which Respondents may be entitled.

At the close of the hearing, Heath Marell requested compensatory damages in the amount of \$193,634.85, James Marell requested compensatory damages in the amount of \$51,869.85, and Susan Marell requested compensatory damages in the amount of \$54,267.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

By correspondence dated November 2, 2016, Respondents filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure. Claimants objected to Respondents' Motion. A recorded telephonic pre-hearing conference was held on December 14, 2016 to hear oral argument on Respondents' Motion. After due deliberation and by Order dated December 14, 2016, the Panel denied Respondents' Motion to Dismiss with leave for Respondents to raise the motion again at the conclusion of the hearings. The Panel made no further determination on Respondents' Motion to Dismiss.

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, 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 are jointly and severally liable for and shall pay to Heath Marell compensatory damages in the amount of \$193,634.85 plus prejudgment interest at the rate of 6% from March 28, 2017 until the date of the award and post judgment interest at the rate of 10% per annum from the date of the award until payment of the award.
2. Respondents are jointly and severally liable for and shall pay to James Marell compensatory damages in the amount of \$51,869.85 plus interest at the rate of 9% per annum from March 28, 2017 until payment of the award.

3. Respondents are jointly and severally liable for and shall pay to Susan Marell compensatory damages in the amount of \$54,267.00 plus interest at the rate of 9% per annum from March 28, 2017 until payment of the award.
4. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
5. 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	=\$ 1,725.00
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**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, Respondent Texas E&P Partners, Inc. is assessed the following:

Member Surcharge	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

Postponement Fees

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

June 20-22, 2017 postponement by Respondents	=\$1,300.00
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Total Postponement Fees	=\$1,300.00
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The Panel has assessed the \$1,300.00 adjournment fees jointly and severally to Respondents.

Last Minute 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:

June 20-22, 2017 postponement requested by Respondents = \$1,800.00

Total Last Minute Cancellation Fees = \$1,800.00

The Panel has assessed the \$1,800.00 last minute cancellation 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:

One (1) pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: May 16, 2017 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session = \$3,900.00
Pre-hearing conferences: October 6, 2016 1 session
December 14, 2016 1 session
June 19, 2017 1 session

Four (4) hearing sessions @ \$1,300.00/session = \$5,200.00
Hearing Dates: July 13, 2017 2 sessions
July 14, 2017 2 sessions

Total Hearing Session Fees = \$9,550.00

The Panel has assessed the \$9,550.00 hearing session fees jointly and severally to Respondents.


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

ARBITRATION PANEL

Christopher M. McMurray	-	Public Arbitrator, Presiding Chairperson
Karen L. Crump-Wilson	-	Public Arbitrator
Jeffrey Axelrad	-	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



Christopher M. McMurray
Public Arbitrator, Presiding Chairperson



Signature Date

Karen L. Crump-Wilson
Public Arbitrator

Signature Date

Jeffrey Axelrad
Public Arbitrator

Signature Date

August 31, 2017

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

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Public Arbitrator, Presiding Chairperson

Signature Date

Karen L. Crump-Wilson

Karen L. Crump-Wilson
Public Arbitrator

8/31/17

Signature Date

Jeffrey Axelrad
Public Arbitrator

Signature Date

August 31, 2017

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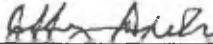
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Signature Date

Karen L. Crump-Wilson
Public Arbitrator

Signature Date



Jeffrey Axelrad
Public Arbitrator



Signature Date

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