

BEFORE FINRA DISPUTE RESOLUTION

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In the Matter of the Arbitration Between

Jollene J. Austin

Claimant,

Against

Statement of Claim

LPL Financial LLC

Respondent.

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BACKGROUND

Jollene J. Austin is a 55 year old respected financial advisor and Branch Manager who has been registered with FINRA for 15 _15_ years. Between July 5, 2011 and June 18, 2013 the Claimant was a financial advisor employed by LPL Financial in HENDERSON County, North Carolina. Starting from January 2012 the Claimant was under the supervision of Gerald Hendrix (“Hendrix”) who also was and is still employed by LPL Financial. During such time, Hendrix engaged in a series of inappropriate and harassing activities toward the Claimant. Since the Claimant has left the firm, Hendrix, while under the employ of the defendant company, defamed the Claimant to her clients and to others, and significantly interfered with the Claimant’s contractual relations with her clients causing her significant long term damages.

**Harassment and Retaliation while employed under Gerald Hendrix Supervision At
LPL Financial**

While employed at LPL Financial the Claimant was the subject of unwanted solicitations by her supervisor Hendrix. Included in such unwanted solicitations by the Claimant's supervisor, all of which were rebuffed, was: a text message from Hendrix stating: "I cant wait to see you in your PJ's send me a picture," continuous calls on weekends insisting that she meet him on Sundays "for beers", requesting that they room together at a upcoming conference in San Diego Ca., and made suggestive comments about what could have happened if she had done so. Hendrix made numerous sexist comments to the Claimant while she was employed with the Respondent including such as in response to numerous requests by the Claimant's female assistant for needed approval of paperwork on new account forms, switch letters, etc, Hendrix stated to the Claimant " she is so prissy and has no patience. You women think that you should get things pronto...".

**Rejection of Supervisor's Demand that the Claimant sell her Book of
Business to him and Commencement of the Interference with the Claimant Book of
Business Before and After the Claimant's Departure**

Following the spurring of Hendrix's advances, Hendrix informed the Claimant that the Respondent had purportedly determined that she needed to "move her book" to another company, that she had thirty days to do so and he instructed her to only speak to him about the status of her employment with the Respondent. Following such directive, Hendrix contacted the Claimant and demanded that instead of moving her book that she

should sell it to him instead for \$150,000 to be paid in five installments, otherwise she would be terminated anyway. Such offer was rejected by the Claimant and the Claimant prepared for locating a new firm to take her clients to. Once Hendrix learned that the defendant had transitioned to a new firm and would not be selling her book of business to him he became verbally abusive toward the Claimant culminating in Hendrix stating to the Claimant after she had departed that she would "never work in this town again". Hendrix, again having been spurred, initiated an ongoing scheme to attempt to ruin the Claimant's career and reputation, and seeks to take the clients she had, which scheme while under the supervision of the Respondent significantly impacted the Claimant financially and wrongfully.

One day before her departure a client of the Claimant, Margaret [REDACTED], who is handicapped and a widow, came into the office to discuss the possibility of investing in a variable annuities which the client heard of on her own. After the Claimant explained to the client the risks and features of such an investment, the client wanted to purchase such for her account. Mr. Hendrix refused to purchase the product for the client, called the client and according to the client harassed her to the point where the client was highly upset crying to the Claimant on the phone complaining about the manner in which Mr. Hendrix treated her on the phone. Hendrix then called her again and had her come to the Claimant's office, where Hendrix then belittled the Claimant in front of the client at which point the client was so uncomfortable that she decided to leave the meeting and later insisted that Hendrix not contact her again. Hendrix then reversed the trades that the Claimant input to purchase \$200,000 of a suitable annuity product for the client, which the client wanted and in so doing negated a \$10,000 commission for the Claimant. Instead the defendant told the client that she should wait a couple of months before effecting the

trade, upon information and belief, with the hope that she would effect the trade later with him rather than the Claimant, as he was seeking to purchase her book of business at the time.

Following the Claimant's departure from the Respondent firm, on or about June 18, 2013, Hendrix while still employed as a supervisor for the Respondent, started to contact the Claimant's clients falsely informing them that the Claimant was moving to Canada and that they thus should switch to him instead. Further, upon information and belief Hendrix admitted that he instructed his assistant to print out all the Claimant's client account reports. Upon information and belief such printouts were conducted so as to prepare for the subsequent direct solicitation to her clients, seeking to interfere with her contractual relations, all of which clients the Claimant came to the Respondent's firm with when she started there. Further, Respondent's employee, Hendrix, defamed the Claimant in his attempt to convince the Claimant's client to stay with the Respondent's firm, and its wayward supervisor. Hendrix contacted multiple clients of the Claimant making various false statements about her besides her purported plans to move to Canada, including but not limited to statements about the validity of her registration status, and that the Claimant had borrowed funds from a client and that "if they (the Respondent) knew of such they would have fired the Claimant", when in reality Hendrix and the Respondent were well aware of such borrowing took place at a prior employer, rather than with the Respondent firm and that such borrowing in the form of a private mortgage was fully approved and documented by the prior employer. More importantly, the Respondent was fully aware of such, back when they hired the Claimant, let alone while she was employed by the Respondent. Hendrix twisted the truth in relation to such transaction and both the Claimant's prior employer's full knowledge and approval of

such transaction, along with the Respondent's full knowledge of such, when the Claimant was hired, so as to defame the Claimant so as to interfere with her client relationships. Attached as Exhibit A is an email the Claimant received from one her clients regarding such false representations. Further, upon information and belief, Hendrix also called local broker(s) telling them that the Claimant was fired from the Respondent firm for borrowing money from a client, and encouraged such broker(s) to call the Claimant's clients that did not stay with the Respondent firm so as to further spread such falsehoods about the Claimant.

As a result, the Claimant has lost several large clients following Hendrix's calls to such clients, resulting in significant long term damages to the Claimant. At all times Hendrix acted within the scope and authority of his employment with the Respondent firm.

Conclusion

As a result of the Defendant's employee's actions, the Claimant has lost 60% of the clients she had while working at the Respondent's firm totaling approximately 12.6 Million in assets . As a result the Claimant has lost not just current income, but significant future income from such clients for the remainder of her career which wrongfully benefited and benefits the Respondent.

Under the established theory of respondeat superior, at all relevant times Mr. Hendrix was and agent employed by or registered with the Respondent and therefore

subject to the control of the Respondent. Therefore, pursuant to the doctrine of respondeat superior, the Respondent Claimant LPL Financial LLC, are strictly liable for the damage caused by their agent Mr. Hendrix who was under the firm's employment and their supervision.

CLAIMS

1. DEFAMATION & SLANDER

As detailed above and hereby incorporated herein, Respondent through their employee(s) directly and indirectly Defamed the Claimant. The Respondent made numerous false statements to the Claimant's clients injuring the Claimant and damaging to her professional reputation. The Defamation engaged in is considered Defamation Per Se in North Carolina as it (1)tends to impeach a person in that person's trade or profession; and/or (2) otherwise tends to subject one to ridicule, contempt, or disgrace, both of which are independently recognized by North Carolina as Defamation Per Se. As such there is no need for the Claimant to prove harm for recovery under the law. While it is clear that the Respondent, through its agent acted with malice, as private figure, under North Carolina Law the Claimant merely must prove negligence on the part of the Defendant and/or its agent Gerald Hendrix in order for recovery to be had for Defamation / Slander.

2. TORTUOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

The above hereby being incorporated herein, the Respondent via its employee(s) interfered with her client's contractual relationships, causing injury and damages to the Claimant.

3. NEGLIGENT AND/OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

The above hereby being incorporated herein, the Respondent via its employee(s) caused the infliction of emotional distress to the Claimant which was reasonably foreseeable.

DAMAGES

1. *Compensatory Damages*— The Claimant requests an award of back pay and front pay in the revues related to the clients lost to the Respondent as a result of their actions totaling approximately 3.2 Million dollar based on a loss of \$320,000 per year for ten years, in lost income and damages ,subject to amendment at the hearing.
2. *Emotional Distress Damages* –Ms. Austin requests and award of damages to compensate for the emotional distress caused by the Respondent employee Hendrix . See Ruark Obstetrics & Gynecology Assocs., P.A., 327 N.C. 283, 304 (1990)
3. *Punitive Damages* –In a multiple of three times the compensatory damages awarded or 9.6 million dollars as provided for under North Carolina law G.S. § 1D-25, based on the respondents' gross, wanton, willful conduct

conducted through its supervisory employee, as well as to deter future violative conduct by the Respondent and its employees. Based on the reckless and/or intentional acts. Ms. Austin requests an award of punitive damages pursuant to Mastrobuono v. Shearson, Lehman, Hutton, Inc. et. al. 514 U.S. 552 (1995) and North Carolina statute G.S. § 1D-35.

4. *Costs* – Ms. Austin requests that all forum/filing fees be assessed against the Claimants and Third Party Respondent , as well as reimbursement of expert witness fees and other costs associated with this matter. The Claimant will provide an affidavit as to such costs upon request of the Panel as such will continue to accumulate through the hearing.

5. *Interest* – Ms. Austin requests pre and post-judgment interest at the legal rate of return from the date of the first defamatory call by the Mr. Hendrix on June 18, 2013 until payment of the award.

6. *Attorney's Fees* – Ms. Austin requests that the Panel award attorney's fees in the amount to be presented at hearing.

Dated:
February 21, 2014

Respectfully submitted,
STUART D. MEISSNER LLC

By: _____

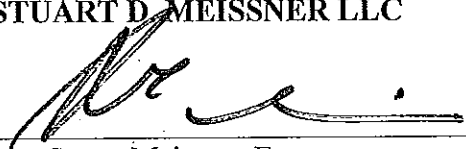

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EXHIBIT A

Theresa Weber

From: Gmail [jollene.austin@gmail.com]
Sent: June 28, 2013 12:57 PM
To: theresa@pym-law.com
Subject: Fwd: Your former supervisor....

Follow Up Flag: Follow up
Flag Status: Flagged

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: June 28, 2013, 10:49:57 AM EDT
To: Lion Jollene Austin <jollene.austin@gmail.com>
Subject: Your former supervisor....
Reply-To: [REDACTED]

Hey Lady,

Just wanted you to know that Tray (?) just called me. Wanted me to use "caution" since you have changed investment companies 4 times in the last 2 years. He said that LPL did not fire you, but did encourage you to "move on". Told me that you had borrowed money from a client, and that LPL did not know this and would have fired you if they had known.

He wants the opportunity to speak with me, I put him off. That's the high points of the conversation. He tried to make sure that I had doubts about your ability without actually saying it out right. Just thought you should know.

[REDACTED]

