

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Moon Z. Choi

Case Number: 17-01614

vs.

Respondents  
Wells Fargo Clearing Services, LLC  
Todd Garrett Barnes

Hearing Site: Los Angeles, California

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

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

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Moon Z. Choi (“Claimant”): Grant B. Gelberg, Esq., Huang Ybarra Gelberg & May LLP, Los Angeles, California.\*

For Respondents Wells Fargo Clearing Services, LLC (“Wells Fargo”) and Todd Garrett Barnes (“Barnes”): Judy Louie, Esq., Wells Fargo Law Department, Pasadena, California.

Hereinafter, Barnes and Wells Fargo are collectively referred to as “Respondents.”

\*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: June 19, 2017.

Moon Z. Choi signed the Submission Agreement: June 19, 2017.

Statement of Answer filed by Respondents on or about: August 14, 2017.

Todd Garrett Barnes signed the Submission Agreement: August 11, 2017.

Wells Fargo signed the Submission Agreement: August 14, 2017.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: unsuitable investments; breach of fiduciary duty; fraud; violation of SEC Rule Section 10(b)(5)/17 C.F.R. § 240.10B-5; negligent misrepresentation; financial elder abuse – California Welfare & Institution Code Section § 15600; negligent infliction of emotional distress; failure to supervise; and negligence. The causes of action relate to investments in a Pacific Life annuity and market linked certificates of deposit in Claimant's brokerage account with Respondent.

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, Claimant requested:

1. Unspecified compensatory damages in an amount to be proven;
2. Interest on all sums at the legal rate;
3. Punitive damages;
4. Double damages pursuant to California Probate Code § 859;
5. Attorneys' fees, costs of suit, and interest as allowed by law; and
6. Such other and additional relief as deemed just and proper.

In the Statement of Answer, Respondents requested:

1. All claims be denied and dismissed;
2. Claimant take nothing;
3. Costs expended for the defense of this matter; and
4. Expungement of this matter from Barnes's Form U-4.

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

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

On July 12, 2018, Claimant filed a notice of dismissal with prejudice of all claims asserted against Barnes. On August 20, 2018, Claimant filed a notice of settlement and dismissal with prejudice of all remaining claims against Wells Fargo. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim. Claimant further noted that this matter would remain open for purposes of expungement.

On September 24, 2018, Barnes filed a Motion for Expungement, to which no response was filed.

The Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Todd Garrett Barnes' (CRD Number 2677616) request for expungement of the above-captioned arbitration (Occurrence Number 1940224) from his registration records maintained by the Central Registration Depository is denied.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee = \$ 1,575.00

*\*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Wells Fargo is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

#### **Postponement Fees**

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

June 25-29, 2018, postponement requested by all parties Waived

September 27, 2019 postponement requested by Claimant Waived

#### **Last-Minute Cancellation Fees**

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

September 27, 2019, postponement requested by Claimant Waived

#### **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), which 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 23, 2018 1 session

Five (5) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 5,625.00  
Pre-Hearing Conferences: November 21, 2017 1 session

March 21, 2019	1 session
March 27, 2020	1 session
September 17, 2020	1 session
March 29, 2021	1 session

Two (2) hearing sessions on expungement request @ \$1,125.00/session	= \$	2,250.00
Hearing: April 26, 2021		2 sessions

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Total Hearing Session Fees	= \$	8,325.00
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The Panel has assessed \$3,037.50 of the hearing session fees to Claimant.

The Panel has assessed \$787.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$4,500.00 of the hearing session fees to Wells Fargo.

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

**ARBITRATION PANEL**

Robert D. Sussin	-	Public Arbitrator, Presiding Chairperson
Rosa Linda Guadarrama	-	Public Arbitrator
Brenda Lee James	-	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**

***Robert D. Sussin***

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Robert D. Sussin  
Public Arbitrator, Presiding Chairperson

***05/21/2021***

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

***Rosa Linda Guadarrama***

\_\_\_\_\_  
Rosa Linda Guadarrama  
Public Arbitrator

***05/20/2021***

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

***Brenda Lee James***

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Brenda Lee James  
Public Arbitrator

***05/24/2021***

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

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May 25, 2021

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Date of Service (For FINRA Dispute Resolution Services use only)