

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant
Devin Wicker

Case Number: 18-00038

vs.

Respondents
Tribal Capital Markets, LLC
Alan Mele
John Barry

Hearing Site: New York, New York

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: Associated Person vs. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimant Devin Wicker: Marc Jonas Block, Esq., The Law Offices of Marc Jonas Block, P.C., New York, New York.

For Respondents Tribal Capital Markets, LLC, Alan Mele and John Barry: Barry M. Bordetsky, Esq., Law Offices of Barry M. Bordetsky, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 3, 2018.
Answer to Counterclaim filed on or about: May 31, 2018.
Devin Wicker signed the Submission Agreement: January 2, 2018.

Joint Statement of Answer and Counterclaim filed by Respondents on or about: April 23, 2018.
Tribal Capital Markets, LLC signed the Submission Agreement: April 23, 2018.
Alan Mele signed the Submission Agreement: April 23, 2018.
John Barry signed the Submission Agreement: April 23, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violation of the Fair Labor Standards Act, 29 U.S.C. § 255(a); violation of the New York State Labor Law; unjust enrichment; breach of contract; and expungement/amendment of a false Form U5.

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

In the Counterclaim, Respondents asserted the following causes of action: declaration that the October 3, 2016 employment agreement is void; fraudulent misrepresentation/concealment; breach of contract; indemnification; and malicious prosecution.

In the Answer to the Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: compensatory damages in the amount of \$815,000.00; punitive damages; attorneys' fees; interest and costs; expungement of Form U5; and such further and additional relief as deemed just and appropriate under the circumstances.

In the Statement of Answer and Counterclaim, Respondents requested dismissal of the Statement of Claim in its entirety; an award granting relief on all Counterclaims including declaratory relief that the agreement is invalid and unenforceable; compensatory damages in an amount of money to be determined at the hearing, but not less than \$500,000.00, plus consequential damages; punitive damages; legal fees; FINRA fees; and other relief deemed just and equitable.

In the Answer to the Counterclaim, Claimant requested that the Counterclaim be dismissed with prejudice; costs; attorneys' fees; and that the Panel grant such other and further relief as deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 8, 2021, the parties filed a Motion for Entry of a Stipulated Award pursuant to their Settlement Agreement and Release of all Claims and Counterclaims ("Settlement Agreement"). Pursuant to the terms of the Settlement Agreement, the parties' respective claims

will be dismissed with prejudiced and all FINRA fees assessed solely against Claimant. On November 9, 2021, the Panel granted the motion.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. Claimant's claims are withdrawn with prejudice.
2. Respondents' Counterclaims are withdrawn with prejudice.
3. Claimant shall be assessed all FINRA fees associated with this arbitration, from inception of the claim through the closing of the file with FINRA; to the extent permissible Respondents will be refunded all prior fees paid to FINRA for the arbitration.
4. Any award of costs or fees otherwise previously entered by the Panel is herein reversed, including assessment of attorneys' fees; however, such reversal shall not be confused with Claimant being assessed the totality of all FINRA fees of both parties associated with the arbitration.
5. Each party shall bear their own costs not otherwise set forth herein.
6. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, are denied.

FEES

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

Filing Fees

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees* for each claim:

Initial Claim Filing Fee	= \$ 1,725.00
Counterclaim Filing Fee	= \$ 2,550.00

**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, Respondent Tribal Capital Markets, LLC 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 3-7, 2019, postponement requested by the parties	= \$ 1,300.00
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Total Postponement Fees	= \$ 1,300.00
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The Panel has assessed \$650.00 of the postponement fees to Claimant.

The Panel has assessed \$650.00 of the postponement fees jointly and severally to Respondents.

Last-Minute Cancellation Fees

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

November 5 & 9-12, 2021, settled by the parties	= \$ 1,800.00
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Total Last-Minute Cancellation Fees	= \$ 1,800.00
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Pursuant to the parties' Settlement Agreement, the total last-minute cancellation fees are assessed to Claimant.

Discovery-Related Motion Fees

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

Two (2) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 400.00
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Respondents submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees	= \$ 400.00
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Pursuant to the parties' Settlement Agreement, the total discovery-related motion fees are assessed to Claimant.

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, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with a single Arbitrator @ \$450.00/session		= \$ 1,350.00
Pre-Hearing Conferences:		
May 19, 2020	1 session	
June 8, 2020	1 session	
July 19, 2021	1 session	
Seven (7) pre-hearing sessions with the Panel @ \$1,300.00/session		= \$ 9,100.00
Pre-Hearing Conferences:		
June 15, 2018	1 session	
October 11, 2018	1 session	
January 3, 2019	1 session	
August 27, 2019	1 session	
May 7, 2020	1 session	
February 2, 2021	1 session	
October 4, 2021	1 session	
Five (5) hearing sessions @ \$x1,300.00/session		= \$ 6,500.00
Hearings:		
November 2, 2021	2 sessions	
November 3, 2021	2 sessions	
November 4, 2021	1 session	
Decision on the papers:		= \$ 300.00
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Total Hearing Session Fees		= \$ 17,250.00

Pursuant to the parties' Settlement Agreement, the total hearing session fees are assessed to Claimant.

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

ARBITRATION PANEL

Keely D. Parr	-	Public Arbitrator, Presiding Chairperson
Amy Banet	-	Public Arbitrator
Kathleen Kuzmen Malone	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Keely D. Parr

Keely D. Parr
Public Arbitrator, Presiding Chairperson

11/15/2021

Signature Date

Amy Banet

Amy Banet
Public Arbitrator

11/15/2021

Signature Date

Kathleen Kuzmen Malone

Kathleen Kuzmen Malone
Non-Public Arbitrator

11/15/2021

Signature Date

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November 16, 2021

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

