

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Alicia Cabouli

Case Number: 18-01782

vs.

Respondent
Wells Fargo Clearing Services, LLC

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

This matter was decided by an all-public panel pursuant to Rule 13802 of the Code of Arbitration Procedure (“Code”).

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Alicia Cabouli: Neil A. Sussman, Esq., Sussman & Frankel, LLP, New York, New York.

For Respondent Wells Fargo Clearing Services, LLC: Robert S. Whitman, Esq., and Meredith-Anne Berger, Esq., Seyfarth Shaw LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 8, 2018.
Amended Statement of Claim filed on or about: May 18, 2020.
Alicia Cabouli signed the Submission Agreement: May 8, 2018.

Statement of Answer filed by Respondent on or about: October 10, 2018.
Answer to the Amended Statement of Claim filed on or about: November 3, 2020.
Wells Fargo Clearing Services, LLC signed the Submission Agreement: October 10, 2018.

CASE SUMMARY

In the Amended Statement of Claim, Claimant asserted the following causes of action: gender discrimination and retaliation (under both federal and New York state law); breach of contract

(covenant of good faith and fair dealing); tortious interference with advantageous relations and contract; misrepresentaion; and intentional and/or negligent infliction of emotional distress.

Unless specifically admitted in the Answer to the Amended Statement of Claim, Respondent denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested unspecified compensatory damages; pre- and post-judgement interest; reimbursement of expert witness fees; statutory attorneys' fees; reimbursement of all costs and expenses incurred in the prosecution of this matter; exemplary damages; and such other and further relief as appears just and proper.

In the Answer to the Amended Statement of Claim, Respondent requested that the Amended Statement of Claim be dismissed in its entirety, with prejudice.

At the hearing, Claimant requested damages for discrimination and retaliation including back pay in an amount ranging between \$616,000.00 and \$2,464,000.00; diminished book value in the amount of \$519,014.00; damages for breach of contract and loss of institutional clients in the amount of \$1,149,628.50; attorneys' fees and expenses in the amount of \$234,056.92; expert witness fees in the amount of \$93,301.25; mediator fees in the amount of \$2,003.43; interest at the rate of 9% per annum; punitive damages; and that all FINRA fees be assessed solely against Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

At the conclusion of Claimant's case-in-chief, Respondent made a Motion to Dismiss pursuant to Rule 13504(b) and Claimant opposed the motion.

By Order dated, January 2, 2022, the Panel partially granted Respondent's Motion to Dismiss and dismissed Claimant's claims for tortious interference with advantageous relations and contract; misrepresentation; and intentional and/or negligent infliction of emotional distress. Accordingly, the hearings continued with respect to the remaining claims.

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. Claimant's statutory claim of gender discrimination and retaliation pursuant to both federal and New York state law is denied.
2. Claimant's non-statutory claims are denied in their entirety.

3. 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

Claimant Alicia Cabouli is assessed a \$200 filing fee in accordance with Rule 13802 of the Code. The balance of the non-refundable portion of the filing fee, in the amount of \$175.00, is assessed to Respondent Wells Fargo Clearing Services, LLC.

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 Wells Fargo Clearing Services, LLC 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 4-7, and 11, 2019, postponement requested by the parties	= \$	1,125.00
September 15-16, and 22, October 13-14, 2020, postponement requested by the parties	= \$	1,125.00
June 16, 18, and 21-25, 2021, postponement requested by the parties	= \$	1,125.00
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Total Postponement Fees	= \$	3,375.00

The Panel has assessed \$1,687.50 of the postponement fees to Claimant.

The Panel has assessed 1,687.50 of the postponement fees to Respondent.

Discovery-Related Motion Fees

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

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Claimant submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	200.00

The Panel has assessed the total discovery-related motion fees 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 16, 2019	1 session	
May 29, 2019	1 session	
November 11, 2020	1 session	
Nine (9) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	10,125.00
Pre-Hearing Conferences: November 26, 2018	1 session	
September 24, 2019	1 session	
August 6, 2020	1 session	
August 7, 2020	1 session	
December 11, 2020	1 session	
January 12, 2021	1 session	
May 18, 2021	1 session	
August 10, 2021	1 session	
September 10, 2021	1 session	
Twenty-three (23) hearing sessions @ \$1,125.00/session	= \$	25,875.00
Hearings: September 20, 2021	2 sessions	
September 21, 2021	2 sessions	
September 22, 2021	2 sessions	
September 27, 2021	2 sessions	
September 28, 2021	2 sessions	
October 4, 2021	2 sessions	
October 5, 2021	2 sessions	
November 30, 2021	2 sessions	
December 2, 2021	2 sessions	
December 3, 2021	2 sessions	
December 15, 2021	2 sessions	
January 12, 2022	1 session	

Total Hearing Session Fees	= \$	37,350.00
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Pursuant to FINRA Rule 13802, which mandates that "A member that is a party to such an arbitration proceeding under this rule shall pay the remainder of all applicable arbitration fees set forth in Rules 13900, 13901, 13902(a), 13902(b) and 13903", the total hearing session fees are assessed to Respondent Wells Fargo Clearing Services, LLC.

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

ARBITRATION PANEL

Regina Waynes Joseph	-	Public Arbitrator, Presiding Chairperson
Leona Beane	-	Public Arbitrator
Robin H. Gise	-	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

Regina Waynes Joseph

Regina Waynes Joseph
Public Arbitrator, Presiding Chairperson

02/16/2022

Signature Date

Leona Beane

Leona Beane
Public Arbitrator

02/17/2022

Signature Date

Robin H. Gise

Robin H. Gise
Public Arbitrator

02/17/2022

Signature Date

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February 17, 2022

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