

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Wells Fargo Clearing Services, LLC
d/b/a Wells Fargo Advisors, LLC

Case Number: 18-03543

vs.

Respondent
Kimberly Kay Rule

Hearing Site: Dallas, Texas

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: Member vs. Associated Person

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC (“Claimant”): Jack D. Ballard, Esq., Bressler, Amery & Ross, PC, Houston, Texas.

Respondent Kimberly Kay Rule (“Respondent”) was represented by counsel until May 2021. Thereafter, Respondent appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: October 10, 2018.
Answer to Counterclaim filed on or about: March 7, 2019.
Claimant signed the Submission Agreement: October 4, 2018.

Statement of Answer and Counterclaim filed on or about: January 24, 2019.
Respondent signed the Submission Agreement: January 24, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a cause of action for breach of promissory note. The cause of action relates to Claimant’s allegation that Respondent signed a promissory note, dated October 1, 2014 (“Note”), and on January 12, 2018, when Respondent’s employment with Claimant ended, the Note immediately became due and owing.

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

In the Counterclaim, Respondent asserted a cause of action for sex discrimination. Respondent alleges that she was subjected to pervasive and systemic sex discrimination with regard to terms and conditions of employment. Specifically, Respondent alleges that Claimant allowed a team of all-male executives to appropriate and commandeer both the relationship and fee that was due and owing to Respondent.

Unless specifically admitted 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 the principle balance due and owing under the Note and interest accrued during the term of the Note at the rate of 1.85% per annum, in the amount of \$195,179.24; interest at a rate of 4.850% per annum on the balance due and owing under the Note from January 12, 2018 ("Date of Default) to the date of payment; costs of collection and of this proceeding, including attorney's fees as agreed to under the terms of the Note; and any and all further relief that the Panel deems just and proper.

In the Statement of Answer, Respondent requested a complete release of the promissory note; reimbursement of all attorney's fees; an unspecified amount to compensate Respondent for mental anguish and emotional distress; all actual damages; and appropriate punitive damage.

In the Answer to the Counterclaim, Claimant requested that Respondent's counterclaim be denied in its entirety, and reasserted Claimant's requests for relief outlined in the Statement of Claim.

At the hearing, Claimant requested \$195,179.24 in compensatory damages; accrued interest in the amount of \$37,120.66; post-award interest; and an award of \$51,473.00 for attorney's fees and reimbursement of FINRA arbitration filing fees.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not appear at the evidentiary hearings on January 19, 2021, January 20, 2021, and July 29, 2021. Upon review of the file, the Panel determined that Respondent received due notice of the hearings and that arbitration of the matter would proceed without Respondent present, in accordance with the Code of Arbitration Procedure ("Code). Therefore, Respondent is bound by the Panel's ruling and determination.

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 is liable for and shall pay to Claimant the sum of \$195,179.24 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant the sum of \$37,120.66 in accrued interest.
3. Respondent is liable for and shall pay to Claimant interest on the above-stated sum of \$195,179.24 at the rate of 4.850% per annum from the date of execution of this Award through and including the date this Award is paid in full.
4. Respondent is liable for and shall pay to Claimant the sum of \$42,648.00 in attorneys' fees pursuant to the terms of the Note.
5. Respondent is liable for and shall pay to Claimant the sum of \$1,000.00 to reimburse Claimant for the non-refundable filing fee previously paid to FINRA Dispute Resolution Services.
6. Respondent's Counterclaim is denied in its entirety.
7. Any and all claims for relief not specifically addressed herein, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$ 2,125.00
Counterclaim 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, Claimant is assessed the following:

Member Surcharge	= \$ 1,700.00
Member Process Fee	= \$ 3,750.00

Postponement Fees

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

January 21, 2021, postponement requested by Respondent	= \$ 1,125.00
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Total Postponement Fees	= \$ 1,125.00
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The Panel has assessed the total postponement fees to Respondent.

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:

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

January 21, 2021, cancellation requested by Respondent	= \$ 1,800.00
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Total Last-Minute Cancellation Fees	= \$ 1,800.00
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The Panel has assessed the total last-minute cancellation fees to Respondent.

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:

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-Hearing Conferences: May 7, 2019	1 session
July 21, 2020	1 session
April 22, 2021	1 session

Two (2) hearing sessions @ \$1,125.00/session	= \$ 3,375.00
Hearings: January 19, 2021	1 session
January 20, 2021	1 session
July 29, 2021	1 session

Total Hearing Session Fees	= \$ 6,750.00
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The Panel has assessed the total hearing session fees to Respondent.

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

ARBITRATION PANEL

Frances Johnson Wright	-	Public Arbitrator, Presiding Chairperson
Kenneth Joe Gold	-	Public Arbitrator
Robert E. Luxen	-	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

Frances Johnson Wright

Frances Johnson Wright
Public Arbitrator, Presiding Chairperson

08/13/2021

Signature Date

Kenneth Joe Gold

Kenneth Joe Gold
Public Arbitrator

08/12/2021

Signature Date

Robert E. Luxen

Robert E. Luxen
Public Arbitrator

08/13/2021

Signature Date

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August 13, 2021

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