

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

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In the Matter of the Arbitration Between:

Claimant  
Gregory Carleton Macko

Case Number: 18-03637

vs.

Respondent  
Wells Fargo Clearing Services, LLC

Hearing Site: Hartford, Connecticut

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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: Associated Person vs. Member

The evidentiary hearing was conducted partially by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Gregory Carleton Macko: Christopher J. Gray, Esq. and Joshua Kons, Esq., Law Office of Christopher J. Gray, P.C., New York, New York.

For Respondent Wells Fargo Clearing Services, LLC: Thomas B. Lewis, Esq., Stevens & Lee, Lawrenceville, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: October 19, 2018.

Gregory Carleton Macko signed the Submission Agreement: October 19, 2018.

Statement of Answer filed by Respondent on or about: December 19, 2018.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: January 7, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and the implied promise of good faith and fair dealing therein; intentional and negligent misrepresentations; negligence; tortious interference with business relations; breach of implied in fact contract; and violation of the Connecticut Unfair Trade Practices

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested unspecified compensatory damages; punitive damages; attorneys' fees; interest; costs; and any such other and further relief as is just and equitable.

In the Statement of Answer, Respondent requested that the Panel deny Claimant's claims in their entirety; enter an award in Respondent's favor for attorneys' fees and costs; and for such other relief as the Panel deems just and appropriate.

At the hearing, Respondent requested legal fees and other costs.

### **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. On February 18, 2020, Claimant filed an opposition to the Motion to Dismiss. On February 25, 2020, Respondent filed a Reply in Support of Motion to Dismiss. On March 9, 2020, after due deliberation, the Panel denied the Motion to Dismiss.

On or about February 10, 2021, an Arbitrator was removed from the Panel. On February 12, 2021, the parties agreed to proceed with the two remaining Arbitrators.

In-person hearings in this arbitration were held on February 4, 5, 6, 7, 2020. The hearing on February 23, 2021 was held virtually through Zoom due to the coronavirus pandemic.

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 claims are denied in their entirety.
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 that employed the associated person at the time of the event 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

**Discovery-Related Motion Fees**

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

Three (3) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 600.00

Claimant submitted two (2) discovery-related motions  
Respondent submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees = \$ 600.00

The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$400.00 of the discovery-related motion 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 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: September 17, 2019 1 session  
October 10, 2019 1 session  
July 29, 2020 1 session

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00

Pre-Hearing Conferences: February 12, 2019 1 session  
December 9, 2020 1 session

Ten (10) hearing sessions @ \$1,125.00/session = \$ 11,250.00

Hearings: February 4, 2020 2 sessions  
February 5, 2020 2 sessions  
February 6, 2020 2 sessions  
February 7, 2020 2 sessions  
February 23, 2021 2 sessions

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Total Hearing Session Fees =\$ 14,850.00

The Panel has assessed \$7,425.00 of the hearing session fees to Claimant.

The Panel has assessed \$7425.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Linda J. Baer	-	Public Arbitrator, Presiding Chairperson
William T. Brice	-	Non-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**

***Linda J. Baer***

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Linda J. Baer  
Public Arbitrator, Presiding Chairperson

**03/29/2021**

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Signature Date

***William T. Brice***

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William T. Brice  
Non-Public Arbitrator

**03/29/2021**

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

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March 30, 2021

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