

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

---

In the Matter of the Arbitration Between:

Claimant  
Barney Greengrass

Case Number: 19-02858

vs.

Respondent  
J.P. Morgan Securities 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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Barney Greengrass: Ethan A. Brecher, Esq., Law Office of Ethan A. Brecher, LLC, New York, New York.

For Respondent J.P. Morgan Securities, LLC: Gene L. Small, Esq., and Briana Huffer, Esq., Eugene L. Small, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 23, 2019.

Statement of Answer to the Counterclaim filed on or about: January 4, 2020.

Barney Greengrass signed the Submission Agreement: September 20, 2019.

Statement of Answer and Counterclaim filed by Respondent on or about: December 19, 2019.

J.P. Morgan Securities, LLC signed the Submission Agreement: December 19, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following cause of action: unjust enrichment.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim, asserted various affirmative defenses, and asserted the following cause of action: breach of contract (promissory note).

Unless specifically admitted in the Statement of 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 of not less than \$3,000,000.00 on account of Respondent's unjust enrichment and an offset in the amount owed on the promissory note; attorneys' fees and costs; pre-award interest; that all forum fees be assessed against Respondent; and all other relief as the Panel deems just, proper, and equitable

In the Statement of Answer and Counterclaim, Respondent requested that the Statement of Claim be dismissed in its entirety, with prejudice; that Claimant bear all costs incurred by Respondent in defending this proceeding; compensatory damages in the amount of \$419,420.67, representing the principal amount due on the promissory note; \$8,514.24, representing the interest that had accrued as of the Demand Date; and all additional interest which has accrued and continues to accrue at the rate of \$36.62 per diem until Claimant pays the entire outstanding balance on the promissory note; all costs, fees and disbursements of this action, including attorneys' fees, due pursuant to the promissory note; and for such other and further relief as the Panel may deem just, proper, and equitable.

In the Statement of Answer to the Counterclaim, Claimant requested that Respondent's claim under the promissory note be denied; an award for attorneys' fees and costs in defending the promissory note claim; an award of all forum fees against Respondent; and all other relief as the Panel deems just, proper, and equitable.

At the hearing, Claimant requested between \$9,159,478.00 and \$13,084,972.00 in compensatory damages.

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

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

On August 5, 2020, Claimant filed a Motion to proceed with Virtual Hearings. On August 14, 2020, Respondent filed a response opposing the Motion to proceed with Virtual Hearings. On August 17, 2020, Claimant filed a reply in further support of his Motion to proceed with Virtual Hearings. On August 25, 2020, the Panel heard oral arguments on the Motion to proceed with Virtual Hearings. By Order dated August 25, 2020, the Panel denied Claimant's Motion to proceed with Virtual Hearings.

On October 28, 2020, Claimant filed a Second Motion to proceed with Virtual Hearings. On November 9, 2020, Respondent filed a response opposing Claimant's Second Motion to proceed with Virtual Hearings. On November 13, 2020, Claimant filed a reply in support of his Second Motion to proceed with Virtual Hearings, and on November 16, 2020, Claimant filed a sur-reply in further support of his Motion. On February 10, 2021, the Panel heard oral arguments on Claimant's Second Motion to proceed with Virtual Hearings. By Order dated February 10, 2021, the Panel granted Claimant's Second Motion to proceed with Virtual Hearings.

**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. Claimant is liable for and shall pay to Respondent the sum of \$457,881.55. This amount is inclusive of interest due on the promissory note through May 20, 2021.
3. Claimant is liable for and shall pay to Respondent interest on the above stated sum at the New York statutory rate from the date of the award through and including the date of full payment of the award.
4. Claimant is liable for and shall pay to Respondent pre-award interest on the amount of \$419,420.67 at the per diem rate of \$32.62 from May 21, 2021 through and including the date of the award.
5. Claimant is liable for and shall pay to Respondent interest on the above stated pre-award interest at the New York statutory rate from the date of the award through and including the date of full payment of the award.
6. Any and all claims for relief not specifically addressed herein, including any requests for attorneys’ fees, are denied.

**Dissenting In Part Opinion**

Arbitrators James Rhodes and Joseph Arata support the award on the Counterclaim. Arbitrator Nicholas Donohue does not agree that the Respondent had standing to assert the claim on the promissory note, which was not otherwise arbitrable.

**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	= \$	2,000.00
Counterclaim Filing Fee	= \$	2,125.00

*\*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 J.P. Morgan Securities, LLC is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

**Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one Arbitrator @ \$200.00	= \$	200.00
--	------	--------

---

Total Contested Motion for Issuance of Subpoena Fees	= \$	200.00
--	------	--------

The Panel has assessed \$100.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$100.00 of the contested motion for issuance of subpoena 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:

Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	5,600.00
Pre-Hearing Conferences:		
January 28, 2020	1 session	
August 25, 2020	1 session	
October 21, 2020	1 session	
February 10, 2021	1 session	

Eight (8) hearing sessions @ \$1,400.00/session	= \$	11,200.00
Hearings:		
May 3, 2021	2 sessions	
May 4, 2021	2 sessions	
May 5, 2021	1 session	
May 6, 2021	1 session	
May 20, 2021	2 sessions	

---

Total Hearing Session Fees	= \$	16,800.00
----------------------------	------	-----------

The Panel has assessed \$11,200.00 of the hearing session fees to Claimant.

The Panel has assessed \$5,600.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

James M. Rhodes	-	Public Arbitrator, Presiding Chairperson
Joseph J. Arata	-	Public Arbitrator
Nicholas J. Donohue	-	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**

***James M. Rhodes***

James M. Rhodes  
Public Arbitrator, Presiding Chairperson

**06/15/2021**

Signature Date

***Joseph J. Arata***

Joseph J. Arata  
Public Arbitrator

**06/14/2021**

Signature Date

**Dissenting In Part Arbitrator's Signature**

***Nicholas J. Donohue***

Nicholas J. Donohue  
Non-Public Arbitrator

**06/15/2021**

Signature Date

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.

June 15, 2021

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