

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Howard Arnold Alexander

Case Number: 20-00008

vs.

Respondent

Barclays Capital Inc.

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 Howard Arnold Alexander: Keith A. Markel, Esq., Morrison Cohen LLP, New York, New York.

For Respondent Barclays Capital Inc.: G. Wayne Hillis, Esq., Jr., Parker, Hudson, Rainer & Dobbs LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 2019.

Howard Arnold Alexander signed the Submission Agreement: December 30, 2019.

Statement of Answer filed by Respondent on or about: February 24, 2020.

Barclays Capital Inc. signed the Submission Agreement: February 24, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach on contract; breach of implied contract; quantum meruit - unjust enrichment; promissory estoppel; breach of covenant of good faith and fair dealing; violation of New York Labor Law; and expungement of Form U5.

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: compensatory damages in an amount of not less than \$2,000,000.00; interest; attorneys' fees; costs; expungement of his Form U5; and such other and further relief as deemed just and proper.

In the Statement of Answer, Respondent requested that Claimant's claims be denied in their entirety and assess all FINRA fees solely against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 1, 2021, the Parties filed a Joint Motion to proceed with Virtual Hearings. By Order dated February 18, 2021, the Panel granted the Parties' Joint Motion to proceed with Virtual Hearings.

At the conclusion of Claimant's case-in-chief, Respondent made a Motion to Dismiss and Claimant opposed the motion. After due deliberation, the Panel denied Respondent's Motion to Dismiss.

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 \$194,000.00 in compensatory damages.
2. Howard Arnold Alexander's request for expungement of his Form U5 from his registration records maintained by the CRD is denied.
3. Any and all claims for relief not specifically addressed herein 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 = \$ 2,000.00

**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 Barclays Capital Inc. is assessed the following:

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

Postponement Fees

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

March 1-5, 2021, postponement requested by the parties	= \$	1,400.00
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Total Postponement Fees	= \$	1,400.00

The Panel has assessed \$700.00 of the postponement fees to Claimant.

The Panel has assessed \$700.00 of the 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:

March 1-5, 2021, cancellation requested by the parties	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed \$900.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$900.00 of the last-minute cancellation 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 the Panel @ \$600.00/decision	= \$	600.00
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Claimant submitted One (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	600.00

The Panel has assessed \$450.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$150.00 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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: January 6, 2021		1 session
Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	5,600.00
Pre-Hearing Conferences: June 2, 2020		1 session
December 4, 2020		1 session
February 8, 2021		1 session
February 11, 2021		1 session
Twenty-Six (26) hearing sessions @ \$1,400.00/session	= \$	36,400.00
Hearings: March 9, 2021		2 sessions
March 10, 2021		2 sessions
March 11, 2021		2 sessions
March 12, 2021		1 session
March 15, 2021		2 sessions
March 16, 2021		2 sessions
March 17, 2021		2 sessions
March 18, 2021		2 sessions
March 19, 2021		2 sessions
June 21, 2021		2 sessions
June 22, 2021		2 sessions
June 23, 2021		2 sessions
June 24, 2021		2 sessions
June 25, 2021		1 session
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Total Hearing Session Fees	= \$	42,450.00

The Panel has assessed \$31,837.50 of the hearing session fees to Claimant.

The Panel has assessed \$10,612.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Albert Rizzo	-	Public Arbitrator, Presiding Chairperson
James D. Yellen	-	Non-Public Arbitrator
Piotr Seweryn Wojtowicz	-	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

Albert Rizzo

Albert Rizzo
Public Arbitrator, Presiding Chairperson

07/07/2021

Signature Date

James D. Yellen

James D. Yellen
Non-Public Arbitrator

07/14/2021

Signature Date

Piotr Seweryn Wojtowicz

Piotr Seweryn Wojtowicz
Non-Public Arbitrator

07/08/2021

Signature Date

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July 14, 2021

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