

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant

Wells Fargo Clearing Services, LLC

Case Number: 20-00352

vs.

Respondent

Jose Tomas De La Rosa Garcia

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Claimant Wells Fargo Clearing Services, LLC: Theodore R. Bynum, III, Esq., Wells Fargo Clearing Services, LLC, St. Louis, Missouri.

For Respondent Jose Tomas De La Rosa Garcia: Tony Haber, Esq., Law Offices of Tony A. Haber, Esq., Coral Gables, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 29, 2020.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: January 29, 2020.

Statement of Answer and Counterclaim filed by Respondent on or about: May 13, 2020.

Jose Tomas De La Rosa Garcia signed the Submission Agreement: May 15, 2020.

Answer to Counterclaim filed by Claimant on or about: June 4, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the cause of action of breach of a promissory note in connection with Respondent's alleged failure to repay sums due Claimant upon Respondent's termination of employment pursuant to the terms of a fully executed promissory note, dated November 21, 2014 (the "Note").

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 causes of action: breach of contract; promissory estoppel/detrimental reliance; constructive termination; forced resignation; and loss of income. The causes of action relate to Claimant's alleged failure to honor its agreement with Respondent for Respondent to continue working at Claimant's Town & Country branch, and instead transferring Respondent to a different location.

Unless specifically admitted in the Answer to Respondent's Statement of Answer and Counterclaim, Claimant denied the allegations made in the Statement of Answer and Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: payment in the amount of \$71,639.94 plus interest accruing at the rate of 1.90% per annum (the outstanding principal balance of the Note); interest at the rate of 4.90% per annum on the additional default amount from May 24, 2017 through such date as the principal and interest are fully paid; costs as agreed under the terms of the Note; and for any and all further relief the Arbitrator deemed just and proper.

In his Statement of Answer, Respondent requested: Claimant's Statement of Claim be dismissed in its entirety or judgment be entered in Respondent's favor and against Claimant; attorneys' fees, costs, and expenses pursuant to Section 57.105, Florida Statutes, and any agreements between the parties; costs; and any other relief the Arbitrator deemed just and proper.

In his Counterclaim, Respondent requested: between \$50,000.00 and \$100,000.00 in damages, exclusive of interest or expenses; attorneys' fees pursuant to Section 57.105, Florida Statutes, and any agreements between the parties; recovery of costs and fees; and any and all further relief the Arbitrator deemed just and proper.

In the Answer to Respondent's Counterclaim, Claimant requested: that Respondent's Counterclaim be dismissed, with prejudice, in its entirety; fees, costs, and expenses; and such other and further relief as the Arbitrator deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On or about July 13, 2021, the parties notified FINRA Dispute Resolution Services that they settled Claimant's claims and Respondent's counterclaims.

On August 3, 2021, the parties filed a Motion for Entry of a Stipulated Award. On August 23, 2021, the Arbitrator granted the motion.

AWARD

The parties entered into an agreement to present to the Arbitrator a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Arbitrator grants the motion and enters this Stipulated Award granting the following relief:

1. Respondent is liable for and shall pay to Claimant the sum of \$42,000.00, as follows:
 - a. Within 30 days of the execution of the Settlement Agreement, Respondent is to pay the sum of \$21,000.00 to Claimant in the manner prescribed in the Settlement Agreement.
 - b. Commencing twelve months after this lump sum has been delivered, Respondent shall begin to make twelve (12) consecutive monthly installment payments in the amount of One Thousand Seven Hundred Fifty Dollars even (\$1,750.00) paid on or before the 15th day of each calendar month, commencing on July 15, 2022, and continuing through June 15, 2023, in the same manner as outlined above, until the remaining settlement balance is paid in full.
2. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees.
 - a. Claimant and Respondent shall each pay to FINRA Dispute Resolution Services one-half of any forum fees assessed by the Arbitrator.
3. This Award shall not be enforced by Claimant against Respondent unless Respondent fails to abide by the terms of the parties' Settlement Agreement, which is incorporated herein in full by reference.
4. In the event that Respondent fails to abide by the terms of the Settlement Agreement, Respondent shall be liable to Claimant:
 - a. A lump sum of Eighty-Six Thousand Nine Hundred Eight-Nine Dollars and 13/100 (\$86,989.13), minus any amounts paid pursuant to the Settlement Agreement;
 - b. Additional costs and fees, including attorneys' fees, incurred by Claimant in enforcing this Award; and
 - c. Interest accrued on the amount remaining under the operation of subpart "4.a." (above) at the Florida statutory rate from the date of the default until the date of payment.

5. Any and all relief not specifically addressed herein is denied.

6. The Stipulated Award may be confirmed, and a judgment entered thereon, but this Award and the judgment entered thereon shall not be enforced by Claimant against Respondent unless Respondent defaults under the Settlement Agreement and Release and fails to timely cure such default. If Respondent makes full, complete and timely payments under the Settlement Agreement and Release, the Stipulated Award shall become null and void.

FEES

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees* for each claim:

Initial Claim Filing Fee	=\$ 1,750.00
Counterclaim Filing Fee	=\$ 975.00

**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	=\$ 1,100.00
Member Process Fee	=\$ 2,250.00

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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Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	=\$ 200.00
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Pursuant to the parties’ agreement, the Arbitrator has assessed \$100.00 of the discovery-related motion fees to Claimant.

Pursuant to the parties' agreement, the Arbitrator has assessed \$100.00 of the discovery-related motion fees to Respondent.

Hearing Session Fees and Assessments

The Arbitrator 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:

Four (4) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$ 1,800.00
Pre-Hearing Conferences: June 4, 2020	1 session
August 27, 2020	1 session
April 27, 2021	1 session
May 10, 2021	1 session

Decision on the papers: = \$ 300.00

Total Hearing Session Fees = \$ 2,100.00

Pursuant to the parties' agreement, the Arbitrator has assessed \$1,050.00 of the hearing session fees to Claimant.

Pursuant to the parties' agreement, the Arbitrator has assessed \$1,050.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Kimberlee Ann Fowler

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Sole 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.

Arbitrator's Signature

Kimberlee Ann Fowler

Kimberlee Ann Fowler
Sole Public Arbitrator

08/25/2021

Signature Date

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August 25, 2021

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