

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant
Wells Fargo Clearing Services, LLC

Case Number: 20-00916

vs.

Respondent
David Daniel Cohen

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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Wells Fargo Clearing Services, LLC: Craig Stein, Esq., Stein & Stein, P.A., Palm Beach, Florida.

For Respondent David Daniel Cohen: Jeffrey L. Cox, Esq., Sallah Astarita & Cox, LLC, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 19, 2020.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: March 18, 2020.

Statement of Answer and Counterclaim filed by Respondent on or about: May 8, 2020.

David Daniel Cohen signed the Submission Agreement: March 26, 2020.

Answer to Counterclaim filed by Claimant on or about: May 26, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of promissory note, unjust enrichment and money lent. The causes of action relate to Respondent's alleged failure to repay sums due to Claimant upon Respondent's termination of

employment pursuant to the terms of a fully executed promissory note dated March 1, 2016 (“Note”).

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 the following causes of action: fraud/fraud in the inducement, unjust enrichment, negligence, breach of implied-in-fact contract, breach of implied covenant of good faith and fair dealing, and punitive damages. The causes of action relate to the termination of Respondent’s employment.

Unless specifically admitted in the Answer to 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 \$167,775.69 plus accruing interest (the outstanding principal balance of the Note); interest in the additional default amount as specified in the Note per annum from March 15, 2019 through such date as the principal and interest are fully paid; attorneys’ fees and costs as determined by the Panel following hearings in this arbitration proceeding; and such further and additional relief the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested that each of Claimant’s allegations be denied in their entirety, that the relief sought be Claimant be wholly denied, and that Respondent be awarded recovery of his costs and attorneys’ fees incurred in defending this action.

In the Counterclaim, Respondent requested: compensatory and punitive damages totaling in excess of \$100,000.00 exclusive of costs and expenses, but less than \$500,000.00, in a specific amount to be determined in advance of a hearing; interest at the Florida legal rate from the first date of Claimant’s pattern of conduct through the date of Claimant’s satisfaction of any arbitration award to be granted by the Panel; costs of bringing this arbitration against Claimant; an award specifically finding that Claimant is liable to Respondent for punitive damages to deter Claimant from engaging in the same conduct in the future; and such further relief as the Panel finds is fair and just under the circumstances.

In the Answer to Counterclaim, Claimant requested that Respondent’s Counterclaim be denied, and that Claimant be granted all costs incurred in defending this proceeding, including expert witness fees, FINRA forum fees, attorneys’ fees, and any such other relief this Panel believes is proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 29, 2021, Claimant filed a Notice of Settlement and Parties' Motion for Stipulated Award. On December 3, 2021, Respondent filed confirmation that the Notice of Settlement and Parties' Motion for Stipulated Award also includes all claims set forth in Respondent's Counterclaim. On December 9, 2021, the Panel granted the motion.

The Stipulated Award in this matter may be executed in counterpart copies.

AWARD

The parties entered into an agreement to present to the Panel 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 Panel grants the motion and enters this Stipulated Award granting the following relief:

1. The parties have entered into a Confidential Settlement Agreement wherein the parties have agreed, among other things, to the entry of a Stipulated Award in favor of Claimant and against Respondent and accordingly Respondent is hereby liable to Claimant in the amount of \$167,775.69 (the original combined principal balance), plus interest on the principal balance at the rate of 5.455%, attorneys' fees and costs as outlined in the Confidential Settlement Agreement.
2. The Stipulated Award shall not be enforced against Respondent as long as Respondent complies with the terms and conditions of a Confidential Settlement Agreement that the parties have entered.
3. With respect to the entry of this Stipulated Award, the parties shall bear their respective costs including all arbitration and forum fees previously imposed and/or incurred through the issuance and confirmation of this Stipulated Award.
4. Any and all claims for relief not specifically addressed herein are dismissed with prejudice.

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	= \$	2,125.00
Counterclaim Filing Fee	= \$	1,425.00

**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, Claimant is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: July 16, 2020	1 session	
March 31, 2021	1 session	

Decision on the papers:	= \$	300.00
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Total Hearing Session Fees	= \$	2,550.00
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The Panel has assessed \$1,275.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,275.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Robert G. Geeseman	-	Public Arbitrator, Presiding Chairperson
Isadora Velazquez-Rivas	-	Public Arbitrator
Bradley Scott Goldfarb	-	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

Robert G. Geeseman

Robert G. Geeseman
Public Arbitrator, Presiding Chairperson

12/14/2021

Signature Date

Isadora Velazquez-Rivas

Isadora Velazquez-Rivas
Public Arbitrator

12/13/2021

Signature Date

Bradley Scott Goldfarb

Bradley Scott Goldfarb
Non-Public Arbitrator

12/13/2021

Signature Date

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December 14, 2021

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