

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

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In the Matter of the Arbitration Between:

Claimant  
Edward K. Newman

Case Number: 20-01066

vs.

Respondents  
Wells Fargo Advisors Financial Network, LLC  
Wells Fargo Clearing Services, LLC  
Aja Hallin  
Tomm Eric Hudson  
Beth Ellen Kirkland  
Theresa Machi  
Elizabeth Sharon Roberts  
Sanford Irving Smith  
Kevin H. Smith

Hearing Site: San Francisco, California

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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: Customer vs. Members and Associated Persons

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

Claimant Edward K. Newman (“Claimant”) appeared pro se.

For Respondents Wells Fargo Advisors Financial Network, LLC (“WFA FiNet”), Wells Fargo Clearing Services, LLC (“Wells Fargo Clearing Services”), Aja Hallin (“Hallin”), Tomm Eric Hudson (“Hudson”), Beth Ellen Kirkland (“Kirkland”), Theresa Machi (“Machi”), Elizabeth Sharon Roberts (“Roberts”), Sanford Irving Smith (“Sanford Smith”), and Kevin H. Smith (“Kevin Smith”): Geoff Beckham, Esq., Wells Fargo Legal Department, San Francisco, California.

Hereinafter, WFA FiNet, Wells Fargo Clearing Services, Hallin, Hudson, Kirkland, Machi, Roberts, Sanford Smith, and Kevin Smith are collectively referred to as “Respondents”.

**CASE INFORMATION**

Statement of Claim filed on or about: April 6, 2020.

Claimant’s Response to Respondents’ Answer to Claim filed on or about: June 2, 2020.

Claimant's Amended Statement of Claim filed on or about: June 2, 2020.  
Claimant's Second Amended Statement of Claim filed on or about: August 10, 2021.  
Claimant's Third Amended Statement of Claim filed on or about: September 29, 2021.  
Claimant signed the Submission Agreement: April 1, 2020.

Statement of Answer filed by Respondents on or about: May 27, 2020.  
Respondents' Objection to Claimant's Response to Answer to Claim and Answer to Amended Statement of Claim on or about: June 5, 2020.  
WFA FiNet and Wells Fargo Clearing Services signed the Submission Agreement: May 27, 2020.  
Hallin signed the Submission Agreement: May 28, 2020.  
Roberts signed the Submission Agreement: May 29, 2020.  
Hudson signed the Submission Agreement: June 3, 2020.  
Kevin Smith signed the Submission Agreement: June 3, 2020.  
Sanford Smith signed the Submission Agreement: June 4, 2020.  
Kirkland signed the Submission Agreement: July 15, 2020.  
Machi signed the Submission Agreement: July 22, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; and negligence.

In Claimant's Amended Statement of Claim, Claimant replaced WFA FiNet with Wells Fargo Clearing Services as a named party to this case.

In Claimant's Second Amended Statement of Claim, Claimant asserted that he should be compensated for his time spent on defending his case.

In Claimant's Third Amended Statement of Claim, Claimant removed wrongful termination as a claim in this case.

The causes of action relate to a Priority Credit Line and investment account held at Wells Fargo Clearing Services.

In the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In Claimant's Response to Respondents' Answer to Claim, Claimant asserted that Respondents included erroneous information in their Statement of Answer.

In Respondents' Objection to Claimant's Response to Answer to Claim and Answer to Amended Statement of Claim, Respondents denied the allegations made in Claimant's Response to Respondents' Answer to Claim.

### **RELIEF REQUESTED**

In the Statement of Claim and Amended Statement of Claim, Claimant requested:

1. Restitution from all named Respondents based on their behavior towards Claimant;

2. Punitive damages from WFA FiNet;
3. \$125,000.00 in compensatory damages;
4. A written assurance that WFA FiNet's office in San Rafael, California will reduce and prevent the top-down treatment to its clients by providing evidence of new procedures put in place; and
5. A written, dated and signed letter by all Respondents that acknowledges their inappropriate behavior towards Claimant and an apology for said unnecessary treatment.

In the Second Amended Statement of Claim, Claimant additionally requested for his time spent in this matter to be added in award if he prevails, and all fees and costs incurred in filing the claim and preparing for and attending the arbitration hearing.

In Claimant's Third Amended Statement of Claim, Claimant did not request for any additional relief request.

In the Statement of Answer, Respondents requested the Panel deny and dismiss all of Claimant's claims.

In Claimant's Response to Respondents' Answer to Claim, Claimant did not set forth a specific relief request.

In Respondents' Objection to Claimant's Response to Answer to Claim and Answer to Amended Statement of Claim, Respondents did not set forth a specific relief request.

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

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

On July 15, 2021, Claimant filed a Motion to Compel and Motion for Sanctions ("Motion"). On July 26, 2021, Respondents filed their opposition. On August 2, 2021, Claimant filed his reply. By Order dated August 10, 2021, the Panel granted the Motion and assessed the following sanctions:

"A majority of the panel concludes that Respondents have not cooperated sufficiently in the exchange of documents and information as required under the Code and there has not been substantial justification for the failures to comply in a timely manner (Rule 12511). The panel majority concludes that a monetary penalty of \$1000, payable to Claimant, who is conducting this arbitration pro se, is appropriate (Rule 12212(a)). The penalty shall be paid within ten days of the issuance of this order."

On July 22, 2021, Claimant filed a Motion to Amend his Amended Statement of Claim. The motion was unopposed. By Order dated August 10, 2021, the Panel granted Claimant's motion.

On September 27, 2021, Claimant filed a Motion to Amend his Second Amended Statement of Claim. The motion was unopposed. By Order dated September 29, 2021, the Panel granted Claimant's motion.

During the evidentiary hearing, after the conclusion of Claimant’s case-in-chief, Respondents moved for dismissal of Claimant’s claims on the basis that Claimant lacked evidence in the record regarding damages. Claimant opposed. The Panel heard oral arguments from the parties. The Panel hereby denies the motion.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, 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. Each party shall bear its own costs.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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 = \$ 1,425.00

*\*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute.

Accordingly, as a party, WFA FiNet is assessed the following:

Member Surcharge = \$ 1,700.00  
Member Process Fee = \$ 3,250.00

Accordingly, as a party, Wells Fargo Clearing Services is assessed the following:

Member Surcharge = \$ 1,700.00  
Member Process Fee = \$ 3,250.00

**Postponement Fees**

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

October 5-8, 2021, postponement requested by parties = WAIVED

**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:

October 5-8, 2021, cancellation requested by parties = WAIVED

**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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: November 9, 2020	1 session	
August 9, 2021	1 session	
Six (6) hearing sessions @ \$1,125.00/session	= \$	6,750.00
Hearings: November 17, 2021	2 sessions	
November 18, 2021	2 sessions	
November 19, 2021	2 sessions	
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Total Hearing Session Fees	= \$	9,000.00

The Panel has assessed \$7,875.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,125.00 of the hearing session fees, jointly and severally, to Respondents.

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

**ARBITRATION PANEL**

David I. Levine	-	Public Arbitrator, Presiding Chairperson
Mary Margaret Bush	-	Public Arbitrator
Christopher Cother Powers	-	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**

***David I. Levine***

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David I. Levine  
Public Arbitrator, Presiding Chairperson

***12/22/2021***

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

***Mary Margaret Bush***

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Mary Margaret Bush  
Public Arbitrator

***12/22/2021***

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

***Christopher Cother Powers***

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Christopher Cother Powers  
Non-Public Arbitrator

***12/22/2021***

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

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December 22, 2021

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