

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nancy Kimball Mellon

Case Number: 20-01831

vs.

Respondents
Wells Fargo Advisors Financial Network, LLC,
Wells Fargo Clearing Services, LLC, and
Wells Fargo Private Bank

Hearing Site: Tampa, 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: Associated Person vs. Members and Non-Member

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Nancy Kimball Mellon (“Claimant”) appeared pro se.

For Respondents Wells Fargo Advisors Financial Network, LLC (“WFAFN”) and Wells Fargo Clearing Services, LLC (“WFCS”), collectively hereinafter referred to as “Respondents”: Kevin K. Fitzgerald, Esq., Jones, Bell, Abbott, Fleming & Fitzgerald L.L.P., Los Angeles, California.

Respondent Wells Fargo Private Bank (“WFPB”) did not enter an appearance in this matter.

CASE INFORMATION

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

Amended Statement of Claim filed on or about: April 12, 2021.

Second Amended Statement of Claim filed on or about: June 7, 2021.

New Second Amended Statement of Claim filed on or about: November 3, 2021.

Claimant signed the Submission Agreement: June 29, 2020.

Statement of Answer and Counterclaim filed by Respondents on or about: September 18, 2020.

Amended Statement of Answer and Counterclaim filed by Respondents on or about: April 29, 2021.

Amended Statement of Answer and Counterclaim filed by Respondents on or about: July 12, 2021.

Amended Statement of Answer filed by Respondents on or about: December 2, 2021.

WFAFN signed the Submission Agreement: September 21, 2020.

WFCS signed the Submission Agreement: September 15, 2020.

WFPB did not file a Statement of Answer or Submission Agreement.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action against all respondents relating to her employment: sexual harassment, sexual discrimination, unlawful discrimination, hostile work environment, hostile behavior of managers and peers, constructive discharge, age discrimination, retaliation, defamation of character, deceitful weaponization of federal agencies, slander, libel, reputation destruction, destruction of business, fraud, and misrepresentation.

Unless specifically admitted in the Amended Statement of Answer to Statement of Claim, as amended, and Counterclaim, Respondents denied the allegations made in the Statement of Claim, as amended, asserted various affirmative defenses and the following causes of action: breach of contract and unjust enrichment. The causes of action related to allegations that Claimant failed to repay the balance due on money loaned and evidenced by five separate promissory notes, which became due and owing after Claimant's employment with Respondents ended.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested damages including the following:

- \$25,000,000
- Jesuit-\$5000 plus no gifting
- AHN-70,000-plus Callie / termination
- HOA- \$12-14000
- Attys fees-HOA, Rushmore, State Bridge, BK, mortgage mod, reinstatement, contract, expungements, late filing, Better Business Bureau
- COMP-3 plus years and future and bonus not paid
- Destruction of business
- Sabotage
- Defamation of character- law firms, internet, Wells Fargo employees directly with clients' websites- use of name-libel, slander
- Foreclosure of our home-loss of business, loss of income

In the Statement of Answer to Statement of Claim, as amended, and Counterclaim, Respondents requested that Claimant's request for damages be denied; that Claimant take nothing; that Claimant be required to pay all costs incurred in these proceedings. In the Counterclaim, Respondents additionally requested that Claimant be ordered to pay Respondents no less than \$624,907.00, plus interest; that Claimant be ordered to pay attorneys' fees as to the counterclaims; and such other and further relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

WFPB is not a member or associated person of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to the claims against WFPB.

In an Order dated December 29, 2020, the Panel dismissed Claimant's claims without prejudice for failure to prosecute, having determined that Claimant had proper notice of pre-hearing conference calls on November 20, 2020 and December 29, 2020 and failed to appear for both calls.

On December 30, 2020, Claimant filed a Motion to Reinstate Case ("Motion to Reinstate"). On January 8, 2021, Respondents filed an Opposition to the Motion to Reinstate. On January 11, 2021, Claimant filed a reply to the Motion to Reinstate. A pre-hearing conference on the Motion to Reinstate was held on February 4, 2021. In an Order dated the same day, the Panel granted the Motion to Reinstate.

In an Order dated April 12, 2021, the Panel ordered Respondents to submit specified litigation documents related to this arbitration case and granted leave to Claimant to file a new Statement of Claim, including those claims ordered to be adjudicated in the arbitration matter. The same day, Claimant filed an Amended Statement of Claim.

On May 17, 2021, Claimant moved to amend the Amended Statement of Claim ("First Motion for Leave"). On May 28, 2021, Respondents filed an Opposition to the First Motion for Leave. In an Order dated June 5, 2021, the Panel denied the First Motion for Leave.

On June 7, 2021, Claimant moved to amend the Amended Statement of Claim ("Second Motion for Leave"). On June 16, 2021, WFCS filed a Notice of Non-Opposition to the Second Motion for Leave. In an Order dated June 23, 2021, the Panel granted the Second Motion for Leave.

On July 3, 2021, Claimant filed a Third Amended Statement of Claim. On July 7, 2021, Claimant filed a Fourth Amended Statement of Claim. On July 9, 2021, Respondents filed a Motion to Strike Claimant's Third and Fourth Amended Statements of Claim ("Motion to Strike"). On the same day, Claimant filed an Opposition to the Motion to Strike. Also, on the same day, Respondents filed a Reply in Support of the Motion to Strike. In an Order dated July 15, 2021, the Panel granted the Motion to Strike.

On the record at the hearing, Respondents moved for dismissal after the close of Claimant's case-in-chief on the basis that Claimant failed to prove the claim ("Motion"). The Panel took the Motion under advisement at the hearing and denies the Motion herein.

On the record at the hearing, Respondents voluntarily dismissed the Counterclaim. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Counterclaim.

On the record at the hearing, after significant discussion by the parties and Panel, the Panel ordered Claimant to file a New Second Amended Statement of Claim. On November 3, 2021, Claimant filed a New Second Amended Statement of Claim. On the record at the hearing, Respondents objected to Claimant's New Second Amended Statement of Claim. The Panel ordered Claimant to file a corrected version of the New Second Amended Statement of Claim. The same day, Claimant filed a corrected version of the New Second Amended Statement of Claim.

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. Claimant’s claims are denied in their entirety.
2. Claimant’s request for expungement, if any, is denied.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys’ fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$	2,250.00
Counterclaim Filing Fee	= \$	2,550.00

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant’s filing fee of \$2,250.00. Upon conclusion of the matter, the Panel determined to assess the non-refundable portion of the filing fee.

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 parties, WFAFN and WFCS are each assessed the following:

Member Surcharge	= \$	4,025.00
Member Process Fee	= \$	7,000.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

Four (4) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	800.00
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Claimant submitted three (3) discovery-related motions
Respondents submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	800.00
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The Panel has assessed \$700.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees, jointly and severally, to Respondents.

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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: October 18, 2021	1 session	
Four (4) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	6,000.00
Pre-Hearing Conferences: November 20, 2020	1 session	
December 29, 2020	1 session	
February 4, 2021	1 session	
April 12, 2021	1 session	
Five (5) hearing sessions @ \$1,500.00/session		
Hearings: November 1, 2021	1 session	= \$ 7,500.00
November 2, 2021	2 sessions	
November 3, 2021	2 sessions	
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Total Hearing Session Fees	= \$	13,950.00

The Panel has assessed \$9,225.00 of the hearing session fees to Claimant.

The Panel has assessed \$4,725.00 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

Karl A. Vogeler, III	-	Public Arbitrator, Presiding Chairperson
Richard Kennard Hurley, Jr.	-	Public Arbitrator
Gary L. Hodge	-	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

Karl A. Vogeler, III

Karl A. Vogeler, III
Public Arbitrator, Presiding Chairperson

01/15/2022

Signature Date

Richard Kennard Hurley, Jr.

Richard Kennard Hurley, Jr.
Public Arbitrator

01/17/2022

Signature Date

Gary L. Hodge

Gary L. Hodge
Non-Public Arbitrator

01/14/2022

Signature Date

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January 18, 2022

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