

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Morgan Stanley Smith Barney LLC

Case Number: 20-02956

vs.

Respondent
Henrique Lucena

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 Morgan Stanley Smith Barney LLC: Elizabeth E. Moum, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

Respondent Henrique Lucena appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2020.

Morgan Stanley signed the Submission Agreement: September 2, 2020.

CASE SUMMARY

Claimant asserted a cause of action for breach of promissory note (the “Note”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: \$950,781.83, the principal balance due and owing on the Note; \$7,913.91, the accrued interest due and owing on the Note until Respondent’s resignation, July 29, 2020; \$4,395.87 in accrued interest from July 29, 2020 through August 25, 2020; interest at \$162.81 per day from August 26, 2020 through the date Respondent satisfies his obligation to Claimant; costs and expenses, including but not limited to filing fees, forum fees and reasonable attorneys’ fees, in connection with pursuing collection under the Note, or a determination that Claimant is entitled to recover its costs and fees in an amount to be determined by a court of competent jurisdiction; and such other and further relief deemed appropriate by the Arbitrator.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file a Statement of Answer. Accordingly, this matter proceeded pursuant to Rule 13806 of the Code of Arbitration Procedure ("Code").

The Arbitrator determined that Respondent was served by regular mail with the Claim Notification letter dated September 3, 2020, Overdue Notices dated October 26, 2020 and December 28, 2020, and Notification of the Arbitrator dated December 28, 2020. None of the regular mail was returned to FINRA by the Post Office.

On October 28, 2020, Respondent registered for the DR Portal, providing Respondent with access to all documents filed in the case, including the Statement of Claim, Overdue Notice, and Notification of Arbitrator. Therefore, Respondent is bound by the Arbitrator's ruling and determination.

AWARD

After considering the pleadings, the Arbitrator has decided and determined 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 \$983,857.08, comprised of the total principal and interest (accrued and accruing) due on the Note through December 31, 2020.
2. Respondent is liable for and shall pay to Claimant additional interest in the amount of \$162.74 per day from January 1, 2021 through the date of service of the Award. Post-Award interest, if applicable, shall accrue in accordance with the Code.
3. Respondent is liable for and shall pay to Claimant the sum of \$19,580.10 in attorneys' fees pursuant to the terms of the Note.
4. Respondent is liable for and shall pay to Claimant \$1,250.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
5. Respondent is liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the paper decision fee previously paid to FINRA Dispute Resolution Services.
6. Any and all relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, Claimant has paid to FINRA Dispute Resolution Services the \$2,475.00 Member Surcharge previously invoiced. Claimant's previously invoiced \$5,075.00 Member Process Fee remains due and owing.

Claimant has also paid to FINRA Dispute Resolution Services the \$1,250.00 non-refundable portion of the filing fee and the \$300.00 Paper Decision Fee.

ARBITRATOR

Michael J. Quarequio

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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

Michael J. Quarequio

Michael J. Quarequio
Sole Public Arbitrator

01/29/2021

Signature Date

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January 29, 2021

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