

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of Arbitration Between

Name of Claimant

Legg Mason Wood Walker, Inc.

and

Case Number: 04-01097

Hearing Site: Houston, Texas

Name of Respondent

David Ray Rodriguez

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**NATURE OF DISPUTE**

Member Firm v. Associated Person

**REPRESENTATION OF PARTIES**

Legg Mason Wood Walker, Inc. ("Claimant" or "Legg Mason") was represented by Gretchen L. Klebasko, Esq., Legg Mason Wood Walker, Baltimore, Maryland.

David Ray Rodriguez ("Respondent" or "Rodriguez") was represented by Robert W. Schmidt, Esq., Howard & Kobelan, Austin, Texas.

**CASE INFORMATION**

The Statement of Claim filed on or about February 18, 2004. The Uniform Submission Agreement of Claimant was signed on or about on or about February 18, 2004. Claimant filed its response to the Counterclaim and Motion to Dismiss on or about February 18, 2005.

The Statement of Answer and Counterclaim was filed by Respondent on or about February 17, 2005. The Uniform Submission Agreement of Respondent was signed on or about December 29, 2004.

**CASE SUMMARY**

Claimant asserted the following cause of action: failure to repay promissory notes. Legg Mason alleged that Rodriguez breached his obligations to repay two Financial Advisor Bonus Repayment Agreements.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted that he was not responsible for the amounts owed. Rodriguez also asserted several Counterclaims, alleging he was discriminated against while employed by Legg Mason.

### **RELIEF REQUESTED**

Legg Mason requested the sum of \$125,494.05, representing the principal unpaid balance due and owing under the Bonus Repayment Agreements, interest at the rate of 8.0% per annum from January 6, 2004 to the date of payment, costs, including but not limited to attorneys' fees, and such other and further relief as the Panel deemed appropriate.

Rodriguez requested that the claims asserted against him be denied in their entirety and that he be awarded an unspecified amount of damages, including among other things damages for loss of income, humiliation, emotional distress, his costs and attorneys' fees.

### **OTHER ISSUES**

On or about March 24, 2005, the parties reached a settlement agreement.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the parties' submissions, representations, and pursuant to the parties' settlement agreement, but without making any findings of fact or conclusions of law, the undersigned arbitrators orders as follows:

- 1.) Respondent, David Ray Rodriguez, is liable for and shall pay to Claimant, Legg Mason, the sum of \$125,494.05 in compensatory damages;
- 2.) Respondent, David Ray Rodriguez, is liable for and shall pay to Claimant, Legg Mason, interest at the rate of 8% per annum from January 6, 2004 through and including the date the Award is paid in full pursuant to the contract;
- 3.) The Counter-Claim of Respondent Rodriguez is dismissed with prejudice;

- 4.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 1,000.00
Counter claim filing fee	= \$ 250.00

#### **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 events giving rise to the dispute. In this matter, the member firm is Legg Mason Wood Walker, Inc.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

March 29-30, 2005, settled by the parties	= \$ 300.00
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#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel	x \$1,125.00	= \$ 1,125.00
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Pre-hearing conference: July 19, 2004 1 session  
Total Forum Fees = \$ 1,125.00

The Arbitration Panel has assessed \$562.50 of the forum fees to Claimant.

The Arbitration Panel has assessed \$562.50 of the forum fees to Respondent.

Pursuant to Rule 10332(g) of NASD Code of Arbitration Procedures: *Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session, including a pre-hearing conference with an arbitrator, shall be subject to an assessment of forum fees and costs incurred pursuant to Rules 10319, 10321, 10322, and 10326 based on hearing sessions held and scheduled within eight business days after the Association receives notice that the matter has been settled or withdrawn. The arbitrator(s) shall determine by whom such forum fees and costs shall be borne.* As NASD Dispute Resolution received notice of the settlement within eight business days of the first scheduled hearing, \$ 562.50 of the Claimant's remaining hearing session deposit is retained and \$ 437.50 of the Respondent's remaining hearing session deposit is retained.

#### Fee Summary

Claimant, Legg Mason, is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Hearing Session Deposit Retained	= \$ 562.50
Three Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 562.50
<u>Total Fees</u>	<u>= \$ 7,475.00</u>
<u>Less payments</u>	<u>= \$ 7,325.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 150.00</b>

Respondent, Rodriguez, is liable for:

Counterclaim Filing Fee	= \$ 250.00
Hearing Session Deposit Retained	= \$ 437.50
Three Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 562.50
<u>Total Fees</u>	<u>= \$ 1,400.00</u>
<u>Less payments</u>	<u>= \$ 1,000.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 400.00</b>

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Mark C. Watler, J.D. - Public Arbitrator, Presiding Chair  
Joshua D. Wallach - Non-Public, Panelist  
Ross D. Friend, J.D. - Non-Public, Panelist

Concurring Arbitrators:

/s/ Mark C. Watler, J.D.  
Mark C. Watler, J.D.  
Public Arbitrator, Presiding Chair

April 25, 2005  
Signature Date

/s/ Joshua D. Wallach  
Joshua D. Wallach  
Non-Public Arbitrator

April 25, 2005  
Signature Date

/s/ Ross D. Friend, J.D.  
Ross D. Friend, J.D.  
Non-Public Arbitrator

April 26, 2005  
Signature Date

May 5, 2005  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Mark C. Watler, J.D. - Public Arbitrator, Presiding Chair  
Joshua D. Wallach - Non-Public, Panelist  
Ross D. Friend, J.D. - Non-Public, Panelist

Concurring Arbitrators:

  
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Public Arbitrator, Presiding Chair

April 25, 2005  
Signature Date

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Joshua D. Wallach  
Non-Public Arbitrator

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Signature Date

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Ross D. Friend, J.D.  
Non-Public Arbitrator

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Joshua D. Wallach  
Non-Public Arbitrator

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Ross D. Friend, J.D.  
Non-Public Arbitrator

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

4/25/05

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Signature Date

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Signature Date

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Date of Service (For NASD office use only)

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Joshua D. Wallach - Non-Public, Panelist  
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Public Arbitrator, Presiding Chair

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Joshua D. Wallach  
Non-Public Arbitrator

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Signature Date

  
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Ross D. Friend, J.D.  
Non-Public Arbitrator

4/26/05  
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Signature Date

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Date of Service (For NASD office use only)