

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Wells Fargo Investments, LLC, Claimant v. Marty M. Martinez, Respondent

Marty M. Martinez, Counter-Claimant v. Wells Fargo Investments, LLC, Counter-Respondent

Marty M. Martinez, Third Party Claimant v. James B. Coon, Third Party Respondent

Case Number: 05-03326

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Member v. Associated Person
Nature of the Dispute: Associated Person v. Member
Nature of the Dispute: Associated Person v. Associated Person

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent Wells Fargo
Investments, LLC and Third Party Respondent
James B. Coon:

Ronald Kane, Esq.
Diane Fischer, Esq.
Kane & Fischer, LTD
Chicago, Illinois

For Respondent/Counter-Claimant/Third Party Claimant
Marty M. Martinez:

David Liebrader, Esq.
Law Offices of David
Liebrader, Inc.
Las Vegas, Nevada

CASE INFORMATION

Statement of Claim filed: June 28, 2005

Claimant/Counter-Respondent Wells Fargo Investments, LLC's Uniform Submission
Agreement signed: June 20, 2005

Statement of Answer, Counterclaim, [and Third Party Claim against James B. Coon]
filed by Respondent/Counter-Claimant/Third Party Claimant Marty M. Martinez:
December 19, 2005

Respondent/Counter-Claimant/Third Party Claimant Marty M. Martinez's Uniform

Submission Agreement signed: November 24, 2005

Reply to Counterclaim [and Third Party Claim] filed by Counter-Respondent Wells Fargo Investments, LLC and Third Party Respondent James B. Coon: March 27, 2006

Third Party Respondent James B. Coon's Uniform Submission Agreement signed: January 30, 2006

CASE SUMMARY

Claimant asserted that Respondent had breached the terms of a promissory note that had been entered into by Claimant and Respondent by failing to repay the balance and interest that became due on the note when Respondent's employment with Claimant terminated.

Unless specifically admitted in his Answer, Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

Counter-Claimant asserted the following causes of action: breach of contract, intentional interference with business advantage, and constructive termination.

Third Party Claimant asserted the following cause of action: intentional interference with business advantage.

Unless specifically admitted in their Reply to Counterclaim [and Third Party Claim], Counter-Respondent and Third Party Respondent denied the allegations of wrongdoing set forth in Counter-Claimant's Counterclaim [and Third Party Claim].

RELIEF REQUESTED

Claimant requested \$35,261.38 in compensatory damages, pre-judgment interest in the amount of \$72.96 and unspecified pre-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

Counter-Claimant requested \$300,000.00 in compensatory damages, unspecified consequential damages, disgorgement and restitution of all earnings, profits, compensation, and benefits received by Counter-Respondent, the amount of income that Counter-Claimant would have earned but for Counter-Respondent's actions, unspecified punitive and exemplary damages pursuant to Nevada Revised Statutes

Chapter 42.001, pre- and post-judgment interest, and costs, including attorney's fees.

Counter-Respondent requested dismissal of Counter-Claimant's Counterclaim in its entirety and costs, including attorney's fees.

Third Party Claimant requested \$300,000.00 in compensatory damages, unspecified consequential damages, disgorgement and restitution of all earnings, profits, compensation, and benefits received by Third Party Respondent, the amount of income that Third Party Claimant would have earned but for Third Party Respondent's actions, unspecified punitive and exemplary damages pursuant to Nevada Revised Statutes Chapter 42.001, pre- and post-judgment interest, and costs, including attorney's fees.

Third Party Respondent requested dismissal of Third Party Claimant's Third Party Claim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On December 10, 2005, Marty M. Martinez filed an Answer, Counterclaim, [and Third Party Claim.] On February 9, 2006, the Panel approved the filing of the Counterclaim [and Third Party Claim] pursuant to Rule 10328(c) of NASD's Code of Arbitration Procedure.

On February 13, 2006, Third Party Respondent filed a Motion to Dismiss Third Party Claim (hereinafter "Motion to Dismiss"). On March 2, 2006, Third Party Claimant filed a Response to Third Party Respondent's Motion to Dismiss. On April 11, 2006, Third Party Respondent filed a Reply in support of the Motion to Dismiss. On June 16, 2006, the Panel issued an Order stating that the Panel would consider Third Party Respondent James B. Coon's Motion to Dismiss on the first day of the evidentiary hearing. On June 21, 2006, the Panel granted the motion.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Marty M. Martinez is liable to and shall pay Claimant Wells Fargo Investments, LLC the sum of \$35,261.38 in compensatory damages.
- 2) Respondent Marty M. Martinez is liable to and shall pay Claimant Wells Fargo

Investments, LLC interest in the amount of 4.24% per annum on \$35,261.38 from October 2, 2003 until June 22, 2006. The total amount of interest that shall be paid by Respondent Marty M. Martinez to Claimant Wells Fargo Investments, LLC is \$4,087.24.

- 3) Respondent Marty M. Martinez is liable to and shall pay Claimant Wells Fargo Investments, LLC the sum of \$15,500.00 in attorney's fees pursuant to the terms of the promissory note that was entered into by Claimant and Respondent.
- 4) With the exception of paragraph 3, the parties shall bear their respective costs, including attorney's fees.
- 5) Counter-Claimant/Third Party Claimant Marty Martinez's claims are denied in their entirety.
- 6) Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$1,000.00
Respondent Marty M. Martinez's Counterclaim/Third-Party Claim filing fee	= \$ 300.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wells Fargo Investments, LLC is a party, and the following fees are assessed:

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Forum Fees and Assessments

The Panel assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related dispute on the papers. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference

with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) decisions on discovery-related disputes on the papers
with (1) one arbitrator @ \$200.00 = \$ 600.00

Claimant submitted two (2) discovery-related disputes
Respondent submitted one (1) discovery-related dispute

One (1) pre-hearing conference session with the Panel
@ \$600.00/session = \$ 600.00
Pre-hearing conference: November 1, 2005 1 session

Four (4) hearing sessions @ \$1,125.00/session = \$4,500.00
Hearings: June 21, 2006 2 sessions
June 22, 2006 2 sessions

Total Forum Fees = \$5,700.00

1. The Panel assessed \$2,850.00 of the forum fees to Claimant Wells Fargo Investments, LLC.
2. The Panel assessed \$2,850.00 of the forum fees to Respondent Marty M. Martinez.

Fee Summary

1. Claimant/Counter-Respondent Wells Fargo Investments, LLC is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 2,625.00
Forum Fees	= \$ 2,850.00
<hr/> Total Fees	<hr/> = \$ 6,475.00
Less payments	= \$(4,225.00)
Balance Due NASD Dispute Resolution	= \$ 2,250.00

2. Respondent/Counterclaimant/Third Party Claimant Marty M. Martinez is charged with the following fees and costs:

Counterclaim/Third Party Claim Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,850.00
<hr/> Total Fees	<hr/> = \$ 3,150.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 3,150.00

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

ARBITRATION PANEL

Joe S. Tarrer, III	-	Public Arbitrator, Presiding Chair
Richard W. Pendleton	-	Public Arbitrator
William R. Rafti	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Joe S. Tarrer, III
Chair, Public Arbitrator

6.28.06
Signature Date

Richard W. Pendleton
Public Arbitrator

Signature Date

William R. Rafti
Non-Public Arbitrator

Signature Date

6/29/06
Date of Service

ARBITRATION PANEL

<i>Joe S. Tarrer, III</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Richard W. Pendleton</i>	-	<i>Public Arbitrator</i>
<i>William R. Rafti</i>	-	<i>Non-Public Arbitrator</i>

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Chair, Public Arbitrator

Signature Date



Richard W. Pendleton
Public Arbitrator

6/29/06

Signature Date

William R. Rafti
Non-Public Arbitrator

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Richard W. Pendleton
Public Arbitrator

Signature Date



William R. Rafti
Non-Public Arbitrator

6/29/2006

Signature Date

6/29/06

Date of Service