

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Wells Fargo Investments, LLC

vs.

Case Number: 06-00217
Hearing Site: Detroit, Michigan

Name of Respondent

Stephen C. Hayward

NATURE OF THE DISPUTE

Member vs. Associated Person

REPRESENTATION OF PARTIES

Wells Fargo Investments, LLC ("Claimant") was represented by Diane C. Fischer, Esq. and Stuart Primack, Esq., Kane & Fischer, Ltd., Chicago, Illinois.

Stephen C. Hayward ("Respondent") appeared in pro per.

CASE INFORMATION

The Statement of Claim was filed on or about January 17, 2006. The Submission Agreement of Wells Fargo Investments, LLC, was signed on or about January 9, 2006, by Chalres W. Daggs, III, Chief Executive Officer.

CASE SUMMARY

Claimant asserted the following cause of action: failure to honor obligations under the terms of a promissory note. Claimant asserted that Respondent owed Claimant monies under the terms of a promissory note ("Note") upon the termination of his employment with Claimant and that Respondent failed to honor his financial obligations to Claimant.

RELIEF REQUESTED

Actual/Compensatory Damages:	\$93,949.62
Interest:	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief:	Unspecified

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Stephen C. Hayward, did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement, but is required to submit to arbitration pursuant to Rule 10301 of the Code and, having appeared at the Initial Pre-Hearing Conference, is bound by the determination of the full Panel and the Arbitrator on all issues submitted.

The full Panel determined that Respondent was properly served notice of the Statement of Claim and Notification of the full Panel by certified mail, and that Respondent, Stephen C. Hayward, is required to submit to arbitration pursuant to the Code and is bound by the determination of the full Panel and the Arbitrator on all issues submitted.

By motion dated August 3, 2006, Claimant opted to proceed against Respondent, Stephen C. Hayward, pursuant to Rule 10314(e) of the NASD Code of Arbitration Procedure. The full panel granted Claimant's motion seeking such relief in light of Respondent's failure to timely answer the Statement of Claim within the time allotted, as extended by the panel at the Initial Pre-hearing Conference conducted June 26, 2006. Respondent has also failed to reply or otherwise defend in response to Claimant's Motion for Default Relief.

In determining the propriety of granting default relief, the Statement of Claim and all supporting documentary evidence served on Respondent have been reviewed (including a promissory note executed by Respondent on or about April 15, 2005, and an associated amortization schedule prepared for Respondent regarding such note; a check dated April 21, 2005, indicating payment in the amount of \$100,000 made to Respondent; demand letters to Respondent dated September 15, 2005, and October 27, 2005; Respondent's Forms U-4 and U-5; an affidavit of Claimant's counsel as to reasonableness and necessity of legal services performed along with backup billing detail; NASD correspondence with Respondent dated 2/10/06; and the Initial Pre-hearing Conference Order dated June 26, 2006 entered in this matter with Respondent participating, granting him a further extension to respond to the Statement of Claim, and clearly outlining each of the milestone dates that would govern the further proceedings in this matter.)

Additional information was also requested of Claimant pursuant to Rule 10314(e)(4) prior to rendering this award to determine (1) whether the billing detail recorded as to attorneys' fees and costs of collection referenced in counsel's affidavit have, in fact, been fully incurred and are payable in full by Claimant without reduction for any reason, i.e., whether they are actual costs; and (2) whether Claimant has previously liened any pay or accounts held in Respondent's name pursuant to the self help provisions of the promissory note. The response of Claimant providing the requested additional information establishes that the legal expenses sought to be reimbursed have been paid in full as billed and that Claimant has not previously exercised any self help rights to lien pay or accounts held in Respondent's name.

AWARD

The undersigned Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Stephen C. Hayward, is liable for and shall pay to Claimant, Wells Fargo Investments, LLC, the sum of \$93,949.62 in damages;
- 2.) Respondent, Stephen C. Hayward, is liable for and shall pay to Claimant, Wells Fargo Investments, LLC, the sum of \$4,078.50 in attorneys' fees;
- 3.) Respondent, Stephen C. Hayward, is liable for and shall pay to Claimant, Wells Fargo Investments, LLC, the sum of \$6,742.98 in costs;
- 4.) Respondent, Stephen C. Hayward, is liable for and shall pay to Claimant, Wells Fargo Investments, LLC, the sum of \$42.12 as of August 5, 2005, in accrued interest pursuant to the terms of the Note; plus interest accruing thereafter at the rate of 4.09% per annum in the total amount of \$4,022.46 as of October 2, 2006 (and thereafter at the same rate until the NASD Date of Service of this Award) pursuant to the terms of the Note; and
- 5.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial Claim filing fee = \$ 1,000.00

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 Wells Fargo Investments, LLC.

Member surcharge = \$ 1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 1,700.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each hearing session conducted and each decision rendered on a discovery-related motion on the papers. A hearing session is any meeting between the parties and the arbitrator, 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 \$750.00	= \$ 750.00
Pre-hearing conference: June 26, 2006 1 session	
<u>Default Proceedings</u>	<u>= \$ 300.00</u>
<u>Total Forum Fees</u>	<u>= \$ 1,050.00</u>

The Arbitrator has assessed \$1,050.00 in forum fees to Wells Fargo Investments, LLC.

FEE SUMMARY

Claimant, Wells Fargo Investments, LLC, is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 1,050.00
<u>Total Fees</u>	<u>= \$ 5,600.00</u>
<u>Less payments</u>	<u>= \$ 5,300.00</u>
Balance Due NASD Dispute Resolution	= \$ 300.00
Plus Balance Refunded by NASD Resolution	= \$ 750.00
<u>Balance Due NASD Resolution</u>	<u>= \$ 1,050.00</u>

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

ARBITRATOR

Mark R. Werder, Esq. - Non-Public Arbitrator, Presiding Chair

Arbitrator's Signature:

/s/ Mark R. Werder, Esq.
Mark R. Werder, Esq.
Non-Public Arbitrator, Presiding Chair

12/18/06
Signature Date

12/18/06
Date of Service (For NASD office use only)

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