

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimants/Counter-Respondents
Morgan Stanley Smith Barney LLC
Morgan Stanley Smith Barney FA Notes Holdings,
LLC

Case Number: 13-00154

vs.

Respondent/Counter-Claimant
Thomas George Lenze

Hearing Site: Seattle, Washington

Nature of the Dispute: Member and Non-Member vs. Associated Person

REPRESENTATION OF PARTIES

Claimants/Counter-Respondents Morgan Stanley Smith Barney LLC and Morgan Stanley Smith Barney FA Notes Holdings, LLC, hereinafter collectively referred to as "Claimants": Shannon L. McDougald, Esq. and Trent Latta, Esq., McDougald & Cohen P.S., Seattle, Washington

Respondent/Counter-Claimant Thomas George Lenze, hereinafter referred to as "Respondent": Carl J. Carlson, Esq., Tousley Brain Stephens PLLC, Seattle, Washington

CASE INFORMATION

Statement of Claim filed on or about: January 14, 2013

Claimants signed Submission Agreements: December 10, 2012

Statement of Answer and Counterclaim filed by Respondent on or about: April 8, 2013

Respondent signed the Submission Agreement: April 3, 2013

Statement of Answer to the Counterclaim filed by Claimants on or about: April 25, 2013

CASE SUMMARY

Claimants asserted that Respondent breached the terms of two Promissory Notes that Respondent executed on August 31, 2007 ("Note One") and December 12, 2008 ("Note Two"). Claimants allege that the Promissory Notes became due and payable upon the termination of Respondent's employment with Claimants.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In his Counterclaim, Respondent asserts the following causes of action: breach of contract; constructive discharge; interference with a contractual relationship with Respondent's son and business partner; and interference with a contractual relationship with Respondent's clients.

Unless specifically admitted in their Answer, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. The principal outstanding balance due on Note One in the amount of \$867,918.00, plus accrued interest;
2. The principal outstanding balance due on Note Two in the amount of \$65,035.00, plus accrued interest;
3. Fees;
4. Expenses;
5. Attorneys' fees; and
6. Such other and further relief as the Panel deems appropriate.

In his Answer and Counterclaim, Respondent requested that any amounts that the Panel finds he owes should be offset and reduced by both the amount of damages suffered by Respondent and the amount of revenue that Claimants have received through Respondent's work.

In their Answer to the Counterclaim, Claimants requested:

1. Respondent's claims be dismissed;
2. Fees;
3. Expenses;
4. Attorneys' fees; and
5. Such other and further relief as deemed appropriate by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 11, 2014, Respondent submitted a Motion for Sanctions for Claimants' Discovery Violations. On July 21, 2014, Claimants submitted a response opposing Respondent's motion. On July 23, 2014, Respondent submitted a reply in support of his motion. On July 25, 2014, Respondent submitted a supplemental reply in further support of his motion.

On July 18, 2014, Claimants submitted a Motion for Sanctions for Discovery Violations. On July 29, 2014, Respondent submitted a response opposing Claimants' motion. By Order dated July 25, 2014, the Panel determined to hear oral argument on both

Respondent's Motion for Sanctions for Claimants' Discovery Violations and Claimants' Motion for Sanctions for Discovery Violations.

Prior to the start of the evidentiary hearing and before any testimony was offered, the Panel heard the parties' oral arguments on Respondent's Motion for Sanctions for Claimants' Discovery Violations and Claimants' Motion for Sanctions for Discovery Violations. The Panel deferred ruling on the motions until it was determined if there had been materially relevant violations. The Panel found that neither party had fully complied with FINRA discovery obligations but that no significantly relevant matter had been intentionally withheld. As a result, after due deliberation, the Panel ruled to deny both motions.

After Claimants presented their case-in-chief, Respondent made an oral Motion to Dismiss. After due deliberation, the Panel deferred ruling on the motion until all of the evidence had been presented. At the conclusion of all testimony, the Panel denied the motion. The basis for the denial was that the premise of the motion, that neither Claimant had proved that it was the holder of the Promissory Notes which formed the basis of the claim, was not established.

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.

AWARD

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

1. Respondent is liable for and shall pay only to Claimant Morgan Stanley Smith Barney FA Notes Holdings, LLC compensatory damages on Note One in the amount of \$801,044.44, plus interest at the rate of 5.25% per annum from August 31, 2012 until the award of \$801,044.44 is paid in full.
2. Respondent is liable for and shall pay only to Claimant Morgan Stanley Smith Barney FA Notes Holdings, LLC compensatory damages on Note Two in the amount of \$65,034.90, plus interest at the rate of 3.0% per annum from December 12, 2011 until the award of \$65,034.90 is paid in full.
3. Upon payment of the sums of numbers one and two above, Claimants Morgan Stanley Smith Barney LLC and Morgan Stanley Smith Barney FA Notes Holdings, LLC, jointly and severally, shall indemnify and hold Respondent harmless from any and all future claims that may arise from any third party person or entity which alleges that it is the holder of the notes which form the basis of the claim in this arbitration. Acknowledgement of this obligation shall be provided in writing, by Claimants Morgan Stanley Smith Barney LLC and Morgan Stanley Smith Barney FA Notes Holdings, LLC to Respondent, immediately upon payment of the award (consisting of numbers one and two above).

4. Claimant Morgan Stanley Smith Barney LLC's claims against Respondent are denied.
5. Claimant Morgan Stanley Smith Barney LLC is solely liable for and shall pay to Respondent compensatory damages in the amount of \$100,000.00 as damages for breach of its obligation to maintain a physical office in the Sun Valley, Idaho area.
6. Respondent's claims against Claimant Morgan Stanley Smith Barney FA Notes Holdings, LLC are denied.
7. Each party shall bear its own attorneys' fees and costs incurred in connection with this arbitration.
8. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,450.00
Counterclaim Filing Fee	=\$ 1,250.00

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

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 a party, Morgan Stanley Smith Barney LLC is assessed the following:

Member Surcharge	=\$ 2,250.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings:

March 4 – 6, 2014, adjournment by Respondent = WAIVED

Discovery-Related Motion Fees

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

Three (3) Decisions on discovery-related motions on the papers with (1) one arbitrator @ \$200.00	=\$ 600.00
Claimants submitted (2) discovery-related motions	
Respondent submitted (1) discovery-related motion	

Total Discovery-Related Motion Fees	=\$ 600.00
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1. The Panel has assessed \$400.00 of the discovery-related motion fees jointly and severally to Claimants.
2. The Panel has assessed \$200.00 of the discovery-related motion fees to Respondent.

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), that 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: April 21, 2014 1 session	
One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: June 24, 2013 1 session	
Six (6) Hearing sessions @ \$1,200.00/session	= \$ 7,200.00
Hearing Dates: August 5, 2014 2 sessions	
August 6, 2014 2 sessions	
August 7, 2014 2 sessions	
<hr/> Total Hearing Session Fees	<hr/> = \$ 8,850.00

1. The Panel has assessed \$8,025.00 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$825.00 of the hearing session fees to Respondent.

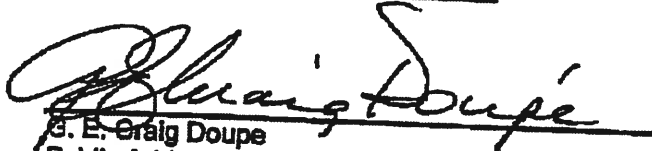
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

G. E. Craig Doupe	-	Public Arbitrator, Presiding Chairperson
Peter R. Day	-	Public Arbitrator
Frederick B. Mueller	-	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


G. E. Craig Doupe
Public Arbitrator, Presiding Chairperson

Aug 18, 2014
Signature Date

Peter R. Day
Public Arbitrator

Signature Date

Frederick B. Mueller
Non-Public Arbitrator

Signature Date

August 19, 2014

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

ARBITRATION PANEL

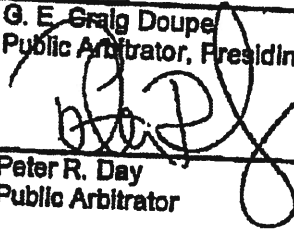
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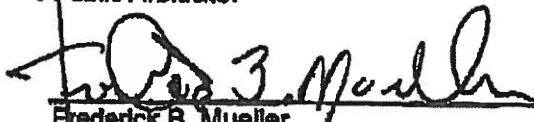
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Signature Date

Peter R. Day
Public Arbitrator

Signature Date



Frederick B. Mueller
Non-Public Arbitrator

8/18/14

Signature Date

August 19, 2014

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