

**Stipulated Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Flavia LoCoco

Case Number: 06-04695

Name of the Respondents  
WM Financial Services, Inc.  
and Philip P. Hurst

Hearing Site: Los Angeles, California

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

**REPRESENTATION OF PARTIES**

Claimant, Flavia LoCoco, hereinafter referred to as "Claimant": Montgomery G. Griffin, Esq., Law Offices of Montgomery G. Griffin, Newport Beach, California

Respondents, WM Financial Services, Inc. and Philip P. Hurst, hereinafter collectively referred to as "Respondents": Jason S. Mills, Esq., Morgan, Lewis & Bockius LLP, Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: October 20, 2006

Claimant signed the Uniform Submission Agreement: October 20, 2006

Statement of Answer filed by Respondents: March 2, 2007

Respondent WM Financial Services, Inc. signed the Uniform Submission Agreement: March 28, 2007

Respondent Philip P. Hurst signed the Uniform Submission Agreement: March 27, 2007

**CASE SUMMARY**

Claimants asserted the following causes of action: wrongful termination in violation of public policy, defamation, failure to pay wages, conversion, money had and received, and breach of contract. The causes of action relate to the termination of Claimant's employment with Respondent.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Unpaid overtime wages;
2. Loss of income;
3. Loss of future earnings;
4. Pre-judgment interest;
5. Presumed damages for libelous and slanderous remarks;
6. Punitive damages in the amount of at least \$1,000,000.00;
7. Attorney's fees;
8. Costs; and
9. Expungement.

Respondents requested dismissal of Claimant's claims in their entirety, costs, and attorney's fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents filed a Motion to Dismiss, dated November 19, 2007. Claimant filed an Opposition and Request for Sanctions, dated December 5, 2007. Respondents filed a Reply in support of their Motion to Dismiss, dated December 10, 2007. On December 17, 2007, the panel and the parties participated in a pre-hearing conference during which the panel heard oral argument regarding Respondents' motion. On January 3, 2008, the panel issued an order granting the Motion to Dismiss with respect to Respondent Philip P. Hurst and deferring its ruling with respect to Respondent WM Financial Services, Inc. The panel did not rule on Claimant's request for sanctions.

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.

### **FINDINGS BY PANEL**

By way of this case, Claimant sought monetary damages and injunctive relief, principally in the form of expungement of two items from her regulatory record with securities industry regulators.

Following four (4) days of hearing before the panel on January 8-11, 2008, the parties settled this matter. The financial terms of the settlement are confidential. On April 21, 2008, Claimant filed a dismissal with prejudice of all claims against Respondent WM Financial Services, Inc. and an unopposed Motion for Expungement. Regarding Claimant's two requests for expungement, the parties stipulated that Claimant's Motion for Expungement would be unopposed by Respondent WM Financial Services, Inc. The full panel conducted a hearing on April 29, 2008 to consider Claimant's unopposed Motion for Expungement. Based on the evidence presented, pursuant to Rule 2130, the panel hereby concludes that the customer's forgery allegation against Claimant is clearly erroneous and/or false. On that basis, the panel finds and recommends that the forgery allegation be expunged from Claimant's record with the Central Registration Depository.

The panel also finds and recommends that the "unprofessional behavior" reason for termination that currently appears on Claimant's Form U-5 be replaced with the words "due to customer allegations." The Panel further states that no action is required of WM Financial Services, Inc.

To the extent required by any industry regulatory authority, including FINRA, Claimant may file a petition with a court of competent jurisdiction to seek confirmation of this award, including a request that such court confirm that portion of this Award whereby the panel has granted her Motion for Expungement. If the petition is granted, then Claimant may present the directive to the Central Registration Depository to execute the requested modifications.

### **AWARD**

The Panel in this matter having reviewed Claimant's unopposed Motion for Expungement and exhibits thereto and having heard statements from counsel for both parties in a telephone conference on April 29, 2008, concludes as follows:

1. The Panel recommends the expungement of all reference to a customer's forgery allegation from Respondent Flavia LoCoco's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to Notice to Members 04-16, Respondent Flavia LoCoco must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact: the allegation is clearly erroneous and/or false.

2. The Panel recommends the expungement of the termination comment on the Form U5 from Claimant's registration records maintained by CRD. The reason for termination should remain "Discharged." However, the Panel recommends that CRD expunge the current termination comment, "unprofessional behavior," in its entirety and replace it with the following new termination comment: "due to customer allegations."

The panel also recommends that the "yes" answers in Section 7(E)(3) of Claimant's Form U5 be deleted and replaced with "no," and that the accompanying Termination DRP contained in the Form U5, which references the forgery allegation, be expunged in its entirety.

Claimant must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. The parties having complied with the terms and conditions of the "Mutual Settlement Agreement," it is hereby ordered that Claimant's request for dismissal with prejudice of Respondent WM Financial Services, Inc. is granted.

4. 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**

FINRA Dispute Resolution assessed a filing fee for each claim:

Initial claim filing fee = \$375.00\*

\* Pursuant to *Armendariz v. Foundation Health Psychcare Services*, 24 Cal.4th 83 (2000), Claimant is assessed \$200.00 of the filing fee and Respondent WM Financial Services, Inc. is assessed \$175.00 of the filing fee.

#### **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, WM Financial Services, Inc. is a party.

Member surcharge = \$2,250.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$4,000.00

#### **Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with Panel @ \$1,200.00/session = \$4,800.00

Pre-hearing conferences: June 13, 2007 1 session  
December 11, 2007 1 session  
December 17, 2007 1 session  
April 29, 2008 1 session

Eight (8) hearing sessions @ \$1,200.00/session = \$9,600.00

Hearing Dates: January 8, 2008 2 sessions  
January 9, 2008 2 sessions  
January 10, 2008 2 sessions  
January 11, 2008 2 sessions

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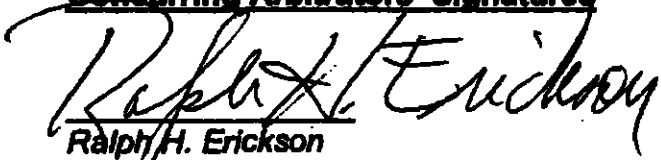
Total Hearing Session Fees = \$14,400.00

The Panel has assessed \$14,400.00 of the hearing session fees to Respondent WM Financial Services, Inc. pursuant to *Armendariz v. Foundation Health Psychcare Services*, 24 Cal.4th 83 (2000).

**ARBITRATION PANEL**

*Ralph H. Erickson* - *Public Arbitrator, Presiding Chairperson*  
*Holly Banafsheh* - *Public Arbitrator*  
*Steven K. Ogata* - *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

  
Ralph H. Erickson  
Public Arbitrator, Presiding Chairperson

*Aug. 26, 2008*  
Signature Date

Holly Banafsheh  
Public Arbitrator

Signature Date

Steven K. Ogata  
Non-Public Arbitrator

Signature Date

*8/29/08*  
Date of Service (For FINRA Dispute Resolution use only)

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*Ralph H. Erickson*  
Public Arbitrator, Presiding Chairperson

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Signature Date



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*Holly Banafshah*  
Public Arbitrator

*Aug 22 - 08*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
*Steven K. Ogata*  
Non-Public Arbitrator

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Signature Date

*8/29/08*  
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Public Arbitrator, Presiding Chairperson

Signature Date

Holly Banafsheh  
Public Arbitrator

Signature Date

Steven K. Ogata  
Steven K. Ogata  
Non-Public Arbitrator

August 23, 2008  
Signature Date

8/29/08

Date of Service (For FINRA Dispute Resolution use only)