

ST. JOHN'S UNIVERSITY SCHOOL OF LAW and
THE FINANCIAL INDUSTRY REGULATORY AUTHORITY

The Seventh Annual
SECURITIES DISPUTE RESOLUTION
TRIATHLON PROBLEM – 2015

*But Will You Love Me Tomorrow*¹

Drew Moore, Broker and
Trajectory-Level Brokerage Firm, Inc.



and
The Financial Industry
Regulatory Authority



Seventh Annual
Securities
Dispute
Resolution
Triathlon

A Three Skill Lawyering Event
Consisting of Competitions in



Saturday and Sunday
October 17 & 18, 2015
Manhattan Campus
51 Astor Place
New York, NY

¹ CAROLE KING LYRICS

"Will You Love Me Tomorrow"

Tonight you're mine completely
You give your love so sweetly
Tonight the light of love is in your eyes
But will you love me tomorrow

Is this a lasting treasure
Or just a moment's pleasure
Can I believe the magic of your sighs
Will you still love me tomorrow

Tonight with words unspoken
You say that I'm the only one
But will my heart be broken
When the night meets the morning sun

I'd like to know that your love
Is love I can be sure of
So tell me now and I won't ask again
Will you still love me tomorrow
Will you still love me tomorrow
Will you still love me tomorrow
Will you still love me tomorrow

What are the contractual and financial obligations, if any, between a broker and a financial services firm when they part ways?

Drew Moore is a forty-year-old star in the investment world who has spent the last fifteen years building (his)(her) customer base of wealthy investors. Drew first began developing (his)(her) moneymaking acumen as an undergraduate at Brown University. While at Brown, a college adviser recognized Drew's superior math skills and encouraged (him)(her) to take classes in finance, accounting, and economics. Drew realized (s)he had an affinity for these subjects and soon became eager to apply classroom theory into real life investing. That opportunity arose during Drew's sophomore year when (his)(her) grandmother bequeathed (him)(her) a \$10,000 inheritance. Drew invested that \$10,000 in undervalued stocks, and soon Drew doubled (his)(her) investment.

Drew's interest was piqued and (s)he wanted to learn more about the skill of making money. After graduating from Brown, Drew applied and was admitted to the MBA program at Wharton. At Wharton, Drew then developed a passion for quantitative analysis, a critical skill in developing successful investment strategies. An added bonus of being at Wharton, Drew was regularly exposed to successful business executives and philanthropists who generously shared invaluable lessons about investing.

Upon graduating from Wharton, Drew received a job offer from Private Brokerage Firm (hereinafter Private). Within a short time at Private, Drew distinguished (himself)(herself) with (his)(her) successful investment strategies. Soon, Drew was enjoying much success managing client assets in excess of \$200 million and generating approximately \$1.5 million in annual commissions. In the twelve months prior to leaving Private, Drew had received 45% of the commissions generated, or \$675,000.

Yes, Drew was a hot commodity. On May 1, 2013, Alex Hearth, a Branch Manger of Trajectory Brokerage Firm (hereinafter Trajectory) approached Drew and invited Drew to become part of the Trajectory winning team. Trajectory was well known as a small boutique financial services firm that specialized in serving high net worth individuals. Alex knew that Drew would bring substantial client assets to the Trajectory network, making Alex's branch the largest in the firm. Alex told Drew Trajectory would be able to offer (him)(her) excellent professional growth opportunities and could provide superior service for Drew's current clients.

Even though Alex and Drew were both drawn to the business because of the allure of making money, each also brought different talents to the investment business. Unlike Drew, Alex entered the investment business as a second career. Prior to entering the investment world, Alex was an assembly member for the state. Alex soon realized that (s)he could make more money using (his)(her) sharp political skills in the investment world and (s)he worked (his)(her) way up through several brokerage firms prior to joining Trajectory. To develop a client base, Alex capitalized on (his)(her) vast network of political connections. Now at fifty, Alex was still striving to reach the top of (his)(her) game and was always looking for new ways to make money. Alex was confident that Drew could capitalize on Alex's political network, further expanding the assets in the branch and increasing Alex's income.

Over the next few weeks, Drew met numerous times with Alex to ensure that (his)(her) clients would continue to receive the high level of customer service they had come to expect. Alex assured Drew that Trajectory could provide all of Drew's clients with similar or better customer service than they had received from Private. Alex further assured Drew that Trajectory could provide (him)(her) with two registered sales assistants to help service (his)(her) clients as well as a Bloomberg terminal in (his)(her) spacious corner office.

Alex and Drew also discussed the compensation package Trajectory was willing to offer Drew. Trajectory was willing to extend an upfront loan to Drew in the amount of \$500,000 as an incentive to join the firm. Trajectory was also willing to pay Drew 50% of the commissions (s)he generated from (his)(her) accounts each year. This was slightly higher than the 45% Drew was currently being paid by Private.

On Friday, May 31, 2013 Drew agreed to join Trajectory and resigned from Private. Drew sent Alex an email, expressing (his)(her) excitement that (s)he would have a corner office with two assistants, and a Bloomberg terminal. Drew also reiterated (his)(her) pleasure that Trajectory offered a 50% payout. On Monday, June 3, 2013, Drew met with Alex at Trajectory's office and signed the promissory note. The Note was for the sum of "\$500,000 with interest on any unpaid balance thereof at 3% per annum remaining from time to time unpaid." The Note contained the following terms:

Payment of principal and interest shall be due and payable from [Drew] to [Trajectory] in equal installments as follows:

\$100,000.00 plus accrued interest on \$500,000.00 on June 3, 2014

\$100,000.00 plus accrued interest on \$400,000.00 on June 3, 2015

\$100,000.00 plus accrued interest on \$300,000.00 on June 3, 2016

\$100,000.00 plus accrued interest on \$200,000.00 on June 3, 2017

\$100,000.00 plus accrued interest on \$100,000.00 on June 3, 2018

Accrued interest shall be due and payable at the same time that the principal installments are due and payable. The principal and all interest payment shall be deemed paid and the installment forgiven if [Drew] is employed by [Trajectory] on the due date of the payment.

The Note also contained a provision that expressly provided that any unpaid balance and accrued interest on the Note would become immediately due and payable if Drew's employment terminated voluntarily or by Trajectory for any

reason whatsoever. Drew is given a 10 day grace period following termination to pay the balance of the Note.²

Most of Drew's clients at Private followed (him)(her) to Trajectory. Drew explained to each of (his)(her) clients that Trajectory promised superior customer service. Drew now had two dedicated sales assistants who were able to handle routine inquiries and ensure that each client felt that they were a top priority. Trajectory followed through on each of its promises. Drew had a large corner office with the sales assistants right outside, a dedicated Bloomberg terminal with a plethora of market information at (his)(her) fingertips. Even though a few clients remained at Private, Drew's earnings did not suffer. In fact, with Trajectory's higher payout, Drew's income increased. Drew still managed client assets that remained at approximately \$200 million and Drew continued to generate approximately \$1.5 million in annualized commissions. For the first year, Drew was one of the top three brokers at Trajectory. Everything was going well for Drew with (his)(her) clients.

However, Alex was not as happy as Drew. To Alex's disappointment, Drew was not able to capitalize on Alex's political network as Alex had expected, even though Alex had arranged introductions between Drew and a number of (his)(her) political contacts. One of the contacts complained to Alex that Drew had rescheduled their initial meeting three times, and then missed the meeting. Another reported to Alex that Drew had only allotted fifteen minutes for the meeting and then took a phone call in the middle of the meeting. Several others met with Drew, but just didn't like Drew's personality. After about six months, none of the contacts Alex had introduced to Drew had opened accounts with Trajectory. Disappointed, Alex stopped making further introductions.

About a year after Drew joined Trajectory, it was announced that Trajectory was merging with Level Brokerage Firm. Level was much larger than Trajectory, and

² You may find a full copy of the Promissory Note attached to the Statement of Claim as Exhibit 1. The Statement of Claim is attached hereto as Attachment 1.

Alex explained to Drew that the merger would offer more resources to Trajectory's customers. On July 15, 2014, Trajectory merged with Level. Alex became the new Regional Managing Director of Trajectory-Level.

As with most corporate mergers, the Trajectory-Level merger was not smooth. First, the two firms' computer systems did not merge properly. As a result, Trajectory client information did not fully migrate to the Trajectory-Level computer system, and that created havoc on the input and retrieval of client information. For example, Drew had difficulty looking up (his)(her) client information on the new computer system. (S)he had to call customer service to get basic account information, which should have been available on the computer screen at the touch of a button. Consequently, every task took three times as long to execute because nothing could be done on the computer. Moreover, each time Drew's clients called to get basic information about their accounts, Drew had to call them back because the information was not readily available. Unfortunately, the superior customer service the clients had come to expect was now gone.

Additionally, the failure of the computer systems to merge caused other serious issues. Several of Drew's clients submitted address changes as the two computer systems were merging, however, the new system never recorded the changes. As a result, one client did not receive a dividend check for over a month because it was mailed to the old address. Another client submitted a change of beneficiary form for her IRA, however, the change of beneficiary form was not recorded by Trajectory-Level's back office because of issues with the computer systems. Shortly thereafter, the client passed away, and Drew was left to deal with the client's estate to establish the proper beneficiary on the account.

Then, in September, Alex told Drew that (s)he would now have to share (his)(her) office with two other brokers. Alex also told Drew that (s)he would no longer be assigned two sales assistants. Instead, (s)he would have to share one sales assistant with the two brokers with whom (s)he shared the office. As a result, Drew found

(himself)(herself) spending more and more time each day dealing with customer service issues, and less time developing business. Each day, Drew spoke with an unhappy client. It was difficult for Drew to get excited about the business, not knowing if the trades (s)he placed would be handled properly.

By December 2014, Drew's production had begun to decline. From July through December 2014, Drew earned only \$255,000. This was less than what Drew had earned during the two previous earning periods. From July to December 2013 — a more lucrative period — Drew earned approximately \$450,000, which was consistent with what (s)he had produced at Private, based on Trajectory's higher payout. Then, from January through June 2014, Drew earned \$375,000.

In January 2015, Drew spoke with Alex about the change in circumstances since the merger. Drew complained that since losing the sales assistants, (his)(her) own office and a dedicated Bloomberg terminal, and all of the issues with the computer systems, it was very difficult to provide the level of service (his)(her) clients had expected, and that Alex had promised they would receive. Alex told Drew (s)he would look into assigning Drew to another office where there might be more space, but said it would take a little time. Alex also told Drew that the computer systems had mostly been worked out by that point and that if there were any further issues, Drew's shared sales assistant should be handling them. Drew requested that (s)he be given what (s)he was promised when (s)he was hired, and have the two sales assistants returned. Alex again said (s)he would look into whether it would be feasible to assign Drew (his)(her) own sales assistant.

By February 2015, nothing had changed. Drew's production declined further. In January, Drew had produced only \$70,000 in commissions, making Drew's portion \$35,000. At the end of February, Drew spoke with Alex again, and Alex told Drew that (s)he was still looking into relocating Drew and getting Drew additional help. Drew continued to get complaints from (his)(her) clients. No one answered Drew's phone, and (s)he received angry voicemails from clients asking (him)(her) to call

them back. Paperwork was still being mishandled by Trajectory-Level's back office, which Drew felt obliged to handle (himself)(herself) because (his)(her) assistant seemed overwhelmed having to work for three brokers.

By the end of April, Drew decided to leave Trajectory-Level. At this point, Drew was managing client assets of approximately \$100 million. From February through April, Drew's production had declined even further to approximately \$62,500 per month in commissions, about half of what (s)he had been producing the year prior. Drew had gone from being one of the top three brokers at Trajectory to barely making the top 50 brokers at Trajectory-Level.

On May 1, 2015, Drew submitted a letter of resignation to Trajectory-Level. Alex informed Drew that the balance under the Promissory Note, \$400,000 plus accrued interest, was immediately due and payable. Drew told Alex that (s)he was only leaving because Alex failed to fulfill (his)(her) promises, and that should cause Trajectory-Level to forgive the remaining balance of the Note. Alex responded that Drew had promised to be a better broker, and if (s)he had been, perhaps (s)he still would have had the corner office. Both Drew and Alex were upset with the number of Drew's clients who had transferred their accounts away from Trajectory-Level.

The following Monday, Drew joined Global Brokerage as a Financial Adviser. Global Brokerage is one of the largest financial services firms in the country. Drew informed Alex that (s)he would be soliciting clients pursuant to The Protocol for Broker Recruiting. The Protocol is an agreement between and among certain broker-dealers to address how liability may be avoided when a registered representative voluntarily resigns from one broker-dealer and joins another, takes information and solicits clients serviced at (his)(her) former firm.³ The Protocol was also adopted to "further the clients' interests of privacy and freedom of choice" as financial advisors voluntarily move between firms. Both Trajectory-Level and Global

³ www.thebrokerprotocol.com

are among the many prestigious firms who are signatories to The Protocol and have agreed to adhere to its guidelines. Drew adhered to the guidelines set forth in The Protocol and removed only permissible information from Trajectory-Level (e.g., client names, addresses, phone numbers, email addresses, and account titles). According to the protocol, Drew was free to approach the clients (s)he serviced at Trajectory-Level after (s)he left the firm and ask them to join (him)(her) at Global.

While Drew began to inform (his)(her) clients that (s)he was now working for a new firm, Alex sent a letter to Drew's clients in an attempt to retain them with Trajectory-Level. The letter informed Drew's clients that Drew was no longer employed with Trajectory-Level. The letter apologized for the sudden departure of their broker and assured the clients that their accounts would soon be assigned to a new broker with integrity. In the interim, the clients were invited to call Alex if they had any questions or concerns about how their accounts had been handled by Drew.

Shortly thereafter, Drew began to submit client account transfer forms to Trajectory-Level to transfer the accounts of those clients (s)he had spoken with and who had agreed to move with (him)(her) to the new firm. It took Trajectory-Level three to four weeks to process these forms, which was an unusually long amount of time. Trajectory-Level blamed continuing issues with the integration of its computer systems for any delays experienced in the account transfer process.

On June 15, 2015, Trajectory-Level filed with FINRA a Statement of Claim against Drew seeking damages for the balance owed by Drew on the Promissory Note in the amount of \$400,000, interest in the amount of 3% from June 4, 2014 until the date the Note is paid in full, and costs and attorney's fees pursuant to the terms of the Note.

On July 1, 2015, Drew filed a Statement of Answer and Counterclaim, raising defenses which excuse Drew's performance under the Note. Additionally, in (his)(her) Counterclaim, Drew is seeking damages for breach of contract and the

covenant of good faith and fair dealing, breach of FINRA Rule 2010: Standards of Commercial Honor and Principals of Trade, defamation, and tortious interference with business relations. Drew requests damages in the amount of no less than \$241,250 and costs and attorneys' fees.

On July 20, 2015, Trajectory-Level filed a Statement of Answer to Respondent's Counterclaim, denying all allegations set forth therein, requesting that the counterclaim be dismissed in its entirety.

NEGOTIATION ROUND:

In this round, each team is to negotiate based on the background facts and the private facts of the client the team is representing. Alex, as the corporate representative for Trajectory-Level and Drew, shall be the parties present at the negotiation.

MEDIATION ROUND:

In this round, please assume that there was no agreement reached in the negotiation round because Trajectory-Level wanted Drew to repay all the money owed under the Note, and Drew was adamant that the Note should be forgiven because of the breached promises. Each team is to proceed based on the background facts and the private facts of the client the team is representing. Please disregard any additional information that might have been revealed in the previous round as well as any agreements that might have been discussed. Alex, as the corporate representative for Trajectory-Level and Drew shall be the parties present at the mediation.

ARBITRATION ROUND:

In this round, please assume that there was no agreement reached in the mediation round because each side believed they had a winning case and was confident a panel of arbitrators would agree. In this round, each team is to proceed based on the background facts and the private facts of the client the team is representing. Please

disregard any additional information learned in the previous two rounds as well as any agreements that might have been reached.

There will be one witness for each side: Alex for the Claimant (Alex is also appearing as Trajectory-Level's corporate representative) and Drew for the Respondent. The Statement of Claim with exhibit is attached hereto as "Attachment 1." The Statement of Answer and Counterclaim with exhibits is attached hereto as "Attachment 2." The Statement of Answer to Respondent's Counterclaim is attached hereto as "Attachment 3." Trajectory-Level's signed Submission Agreement is "Attachment 4," and Drew's signed Submission Agreement is "Attachment 5." The Statement of Claim with exhibit, the Statement of Answer and Counterclaim with exhibits, and the Statement of Answer to Respondent's Counterclaim will be Arbitrator's Exhibit One and are therefore part of the record.

The following statistics are provided for informational purposes only to supplement the dispute resolution statistics available at <http://www.finra.org/arbitration-and-mediation>:

FINRA Statistics of Promissory Note Cases

- In 2014, 13% of the cases filed (486 out of 3,824) involved claims that a party did not pay money owed under a promissory note.
- 61 of the 486 promissory note cases filed in 2014 have been decided by arbitrators (by hearing or on the papers).
- Some damages were awarded in 97% of these cases (59 out of 61).
- 425 of 486 promissory cases were resolved by some other means, such as settlements or withdrawals.

* This problem was collaboratively created by Ken Andrichik, Elayne E. Greenberg, Christine Lazaro, Kristine Vo and Nicholas Weiskopf.

Private Facts for Trajectory-Level, for Alex, the corporate representative of Trajectory-Level, and for Trajectory-Level's Attorney:

Another broker just trying to take the money and run. You hope (s)he saved some of it to pay the company back, because you heard that lots of these brokers try to avoid their responsibility by claiming financial hardship. For both you and Trajectory-Level, this is just as much about the public statement as the money. You also are aware that this debacle, in part, impugns your judgment. After all, you are the one who solicited Drew to join Trajectory.

Truth be told, Drew did not work out the way you had hoped and expected. Drew didn't spend any time on your client base. You never spoke about it with Drew, although maybe you should have. You just didn't think it would make a difference. Personally, you were very different people with different worldviews on the business. Drew was focused on making money for Drew and (s)he didn't work and play well with the rest of the team. If Drew had been a team player, Drew would have been more resilient in dealing with the inevitable glitches that arose when Trajectory and Level merged. But, Drew is all about Drew.

With the benefit of hindsight, your lawyer has asked you to think if there is anything you and the firm might have done differently in the handling of this matter. There are a few points that Drew may be able to make about customer service. Drew definitely lost some clients after the Trajectory-Level merger. By the time Drew left, (his)(her) asset base had been cut in half. A small part of that was due to the market, but most of it was due to clients transferring their accounts away. Drew said they were unhappy with the customer service, and, there were a number of things Trajectory-Level had messed up. But it's possible Drew may have lost fewer clients if (s)he had been more attentive to the accounts. Besides, clients transfer accounts for a number of different reasons. Drew already proved with your contacts that (s)he is not an easy person to work with.

You are worried about what the regulators might say about the delays in the client transfers. You know three to four weeks is a long time to transfer client accounts. Although you blamed the computer systems, there may have been some delays getting the paperwork submitted. Also, the regulators may not be sympathetic to residual delays in the computer system over a year after the merger. It may appear that the delays were retaliatory.

You are also a little concerned about the letter that you sent to Drew's clients. At the time, you were angry with Drew. Looking back, you can see how the letter may come across as misleading. You know you didn't say anything wrong in it, but it's possible that the arbitrators may not agree. You also don't want to give people the wrong idea that you hold a grudge. After all, you need to successfully recruit brokers to keep your branch profitable.

In-house counsel is representing the firm in this matter. At the arbitration hearing, the firm will request attorneys' fees at the average market rate for attorneys in this area for these types of matters which is \$400 per hour. However, the in-house attorney is handling a number of other matters as well, and if this matter not resolved prior to the arbitration hearing, the firm will be forced to retain outside counsel at the prevailing market rate for certain other matters the in-house attorney is handling, and incur additional expenses.

Even though your lawyer remarked that this seems to be a straightforward matter, there are no guarantees. Given your political background, you have gone on record for your firm as being a great supporter of the Protocol. You want to keep that reputation intact. And, now that you are over fifty, it is also important that your reputation as player in the industry is preserved.

Private Facts for Drew and Drew's Attorney:

This is all about cutting your losses with Trajectory-Level and moving on. You have been a respected broker in the industry, and other firms are regularly trying to entice you to move with your client base to their firm. That's just how it is. However, you started paying more attention to those offers since February 2015 when you realized life would never get better at Trajectory-Level. After all, you need to protect your client base and your bottom line before people on the street begin rumoring you lost your mojo. Global will give you the support you were used to. However as company policy, Global does not offer upfront loans as an incentive to recruit brokers to join their firm.

When it rains, it pours. On June 13, 2014, your only sister Allyson, her husband Brent and their nine-year-old daughter Casey were in a horrendous car accident. Allyson and Brent died of their injuries, while their daughter Casey was left grievously injured. You became the sole guardian of Casey and her two Pembroke Welsh Corgis—George and Charlotte, ages nine and ten respectively. Allyson and Brent died heavily in debt and left no assets to cover Casey's growing medical bills or living expenses. Therefore, it became your financial responsibility to care for Casey. Casey's immediate medical costs beyond the existing health insurance totaled \$125,000. You relied on your income and savings to help support Casey's living and medical expenses as well as the expenses of caring for two older dogs—all of which you estimates will continue to be \$80,000/year. You are worried that with your diminishing income and rising expenses, you might have to file for bankruptcy within the year.

How dare Trajectory-Level say you owe them anything on the promissory note when they have caused you such economic and reputational damage! Trajectory-Level should give you back your lost income because of their lack of support. You have lost half of your assets under management. Yes, a small amount of that was caused by market losses, but most of it was caused by the poor customer service. Clients were fed up not being able to get information about their accounts when

they called. In 2015, why should you have to call your client back to tell them how much money is in their account?

Your lawyer has asked you to put yourself in Trajectory-Level's shoes and consider what, if anything, they might say you did wrong. Really nothing. You are a star. However, if they really want to dig deep into the barrel, you know Alex wanted you to spend more time courting (his)(her) government cronies. How could you have done that, when you had to spend so much time protecting your client base?

Your lawyer is also cautioning you about the cost of arbitrating the case to an award. Your lawyer is your cousin who has not charged you to date, and will not charge you if the case can be resolved through negotiation or mediation. However, your cousin has informed you that (s)he will have to bill you at (his)(her) standard rate, which is the average market rate for attorneys in this area for these types of matters, of \$400 per hour, if (s)he incurs time preparing for an arbitration hearing.

You worry about losing your license if you can't pay any award against you. Then what would happen to you, Casey, George and Charlotte? Your new compliance officer in Global advised you that if the FINRA arbitration award was rendered against you, you would have a right to request a hearing before the FINRA Office of Hearing Officers to assert any of the Rule 9554 defenses, including a bona fide inability to pay the award and that the Hearing Officer could determine whether any sanction for failure to pay the award is warranted.

FINRA DISPUTE RESOLUTION, INC.
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In the Matter of the Arbitration Between: :

TRAJECTORY-LEVEL BROKERAGE FIRM, INC. :

Claimant, :

FINRA Case No. 15-012345

vs. :

Statement of Claim

DREW MOORE :

Respondent. :

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This Statement of Claim is filed on behalf of Claimant, Trajectory-Level Brokerage Firm, Inc., a FINRA member, against Respondent, Drew Moore, an associated person. This claim is filed pursuant to Rule 13200 of the FINRA Code of Arbitration Procedure as a controversy between a member and an associated person. Trajectory-Level seeks to recover \$_____ in damages.

On June 3, 2013, Drew signed a promissory note with Trajectory (Trajectory-Level’s predecessor) for \$500,000 (the “Note”). A copy of the Note is attached as Exhibit A. The terms and conditions of the Note provided for the forgiveness of its balance over a period of five years in consecutive annual installments of \$100,000 beginning with June 3, 2014 and on June 3rd of each successive calendar year through 2018. The Note also contained a provision that expressly provided that any remaining balance due and owing on the Note, plus interest, would become immediately due and payable if Drew’s employment with Trajectory terminated for any reason before the Note was repaid in full.

On June 3, 2014, one annual installment of the Note, or \$100,000, was forgiven. \$400,000 remained due and owing on the Note.

On May 1, 2015, Drew submitted a letter of resignation to Trajectory-Level. At that time, Alex Hearth, the Regional Managing Director of Trajectory-Level, informed Drew that the balance of the Note was immediately due and payable. At that time, \$400,000 in principal was due, and interest was accruing at the rate of 3% per annum on the unpaid portion.

To date, Drew has not repaid the balance due on the Note. Trajectory-Level has been forced to file this arbitration to recover the balance due. Under the terms and conditions of the Note, Trajectory-Level is entitled to recover costs and reasonable attorneys' fees associated with the collection of the Note.

RELIEF REQUESTED

Based upon the foregoing, Trajectory-Level requests an award against Respondent Moore for compensatory damages in the amount of \$400,000, interest in the amount of 3% from June 4, 2014 until the date the Note is paid in full, and costs and attorneys' fees associated with the filing of this arbitration.

TRAJECTORY BROKERAGE, INC.

PROMISSORY NOTE

\$500,000.00

Amount

June 3, 2013

Date

FOR VALUE RECEIVED, the undersigned (the "Employee") promises to pay to Trajectory Brokerage, Inc. (the "Employer") the principal sum of five hundred thousand dollars and zero cents (\$500,000.00) with interest on any unpaid balance thereof at 3% per annum remaining from time to time unpaid. Payment of principal and interest shall be due and payable from the Employee to the Employer in equal installments as follows:

\$100,000.00 plus accrued interest on \$500,000.00 on June 3, 2014
\$100,000.00 plus accrued interest on \$400,000.00 on June 3, 2015
\$100,000.00 plus accrued interest on \$300,000.00 on June 3, 2016
\$100,000.00 plus accrued interest on \$200,000.00 on June 3, 2017
\$100,000.00 plus accrued interest on \$100,000.00 on June 3, 2018

Accrued interest shall be due and payable at the same time that the principal installments are due and payable. The principal and all interest payment shall be deemed paid and the installment forgiven if the Employee is employed by the Employer on the due date of the payment.

Employer shall declare any unpaid balance and accrued interest on this Note immediately due and payable, without notice or demand, if the Employee dies while employed by Employer or if the Employee's employment with Employer terminates voluntarily or is terminated by Employer for any reason whatsoever prior to the due date of any payment under this Note. The Employee hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

If the Employee's employment is terminated voluntarily or for any other reason, the Employee shall have ten (10) days to pay the balance of the Note in full.

Interest shall continue to accrue thereafter at the rate of 3% per annum on any unpaid balance until the Note is paid in full.

Privilege is reserved to prepay at any time without premium or fee all or any portion of the unpaid principal and accrued interest.

The Employee shall reimburse the Employer for any and all costs and expenses, including attorneys' fees, incurred by the Employer as a result of the breach by the Employee of any of the terms of this Note.

The provisions of this Note shall be severable and, if any provisions hereof shall be determined to be unenforceable or void, the remaining provisions of this Note shall be deemed to be valid and fully effective.

This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns.

This Note shall not be deemed to be a contract for employment for any length of time. Employee's employment with the Employer is on an at-will basis.

Any controversy or claim arising out of or related to this Note shall be settled by arbitration in accordance with the rules of FINRA and judgment upon any award entered by the arbitrator(s) may be entered in any court having jurisdiction.

Employee

Drew Moore
Signature: Drew Moore

June 3, 2013
Date

FINRA DISPUTE RESOLUTION, INC.		
-----X		
In the Matter of the Arbitration Between:	:	
	:	
TRAJECTORY-LEVEL BROKERAGE FIRM, INC.	:	
Claimant/Counter-Respondent,	:	FINRA Case No. 15-012345
	:	
vs.	:	Statement of Answer
	:	and Counterclaim
DREW MOORE	:	
Respondent/Counter-Claimant.	:	
-----X		

This Statement of Answer and Counterclaim is filed on behalf of Respondent, Drew Moore, in response to the Statement of Claim filed on behalf of Trajectory-Level Brokerage Firm, Inc.

Contrary to the picture painted in the Statement of Claim, this is not a routine claim to collect monies owed on a promissory note. In reliance on false promises made by Trajectory-Level and its agents, Drew, a successful broker who had spent a number of years building (his)(her) business, joined the firm only to see that business drastically decline. Drew also had (his)(her) reputation smeared by false and defamatory statements made by Trajectory-Level’s agent after (his)(her) departure from the firm.

In May 2013, Trajectory recruited Drew to join the firm. Alex Hearth, then a branch manager at Trajectory, promised that Drew’s clients would receive similar or better customer service than they had at Drew’s prior firm, that Drew would be given two registered sales assistants to service (his)(her) clients as well as a Bloomberg terminal in (his)(her) spacious corner office. Additionally, Drew would receive a 50% payout of any commissions Drew generated. Drew confirmed these promises in an email to Alex on May 31, 2013. A copy of the email is attached as Exhibit 1.

On July 15, 2014, Trajectory merged with Level Brokerage Firm to form Trajectory-Level. There were many issues following the merger that affected Drew’s business and negatively impacted Drew’s clients and ultimately, led to a

significant decline in Drew's income. For example, Drew could not obtain basic client information on the new computer system and had to repeatedly call customer service to get the information. This delayed the time it took to convey information to clients or answer client inquiries.

Additionally, Trajectory-Level failed to process certain paperwork submitted by Drew's clients. As a result, one of Drew's clients did not receive a dividend check in a timely fashion. Trajectory-Level failed to record a change of beneficiary on another account, which led to issues after the client passed away. This unacceptable failure in customer service severely impacted Drew's reputation with (his)(her) clients.

In September 2014, Alex informed Drew that Trajectory-Level would no longer provide Drew with a private office or two registered sales assistants. Drew would be forced to share the office and a single sales assistant with two other brokers. As a result, Drew was forced to handle many of the customer service issues that resulted from the botched merger on (his)(her) own. Over the next several months, Drew made several pleas to Alex to remedy the issues. Alex reassured Drew that the issues would be addressed, however, they never were.

After the merger, Drew's production had declined as a result of Trajectory-Level's breached promises. Drew's clients were no longer receiving the customer service they were promised when Drew joined Trajectory, and Drew was no longer receiving the support (s)he was promised. Between July 2014 and the end of April 2015, Drew's production had declined a total of approximately \$241,250 (assuming Drew had earned approximately \$62,500 per month prior to the merger).

On May 1, 2015, Drew was forced to resign to prevent any further damage to (his)(her) business. However, there was further damage. On May 4, 2015, Alex sent a letter to each one of Drew's client's which stated that Drew left the firm suddenly and implied that Drew lacked integrity. A copy of the

form letter is attached as Exhibit 2. The letter was untruthful and defamatory and was intended to smear Drew's professional reputation. Thereafter, Drew submitted client account transfer forms to Trajectory-Level on behalf of (his)(her) clients to transfer their accounts to Drew's new firm. Trajectory-Level took three to four weeks to transfer the accounts.

Defenses

As a result of Trajectory-Level's failure to fulfill the promises it made to Drew during (his)(her) recruitment to the firm, Drew's performance of (his)(her) alleged obligations under the Promissory Note became impossible or impractical.

If Drew failed to perform any obligation under the Promissory Note, (s)he should be excused from the performance of the agreement.

Counterclaims

Breach of Contract and the Covenant of Good Faith and Fair Dealing

Every contract contains and implied covenant of good faith and fair dealing. Through its actions, Trajectory-Level breached that covenant. Drew was induced to join Trajectory and leave (his)(her) prior employer on the basis that Trajectory would provide certain services that it had no intention of providing in the long term. Trajectory never informed Drew that its promises were limited in time. As a result, Drew's business and reputation were damaged.

Breach of FINRA Rule 2010: Standards of Commercial Honor and Principles of Trade

FINRA Rule 2010 provides that "A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable

principles of trade.” Through the conduct outlined above, Trajectory-Level violated this basic tenet of business conduct. As a result, Drew’s business and reputation were damaged.

Defamation

Trajectory-Level committed defamation when it sent letters to Drew’s clients which stated that Drew left the firm suddenly and implied that Drew lacked integrity. This damaged Drew’s reputation with (his)(her) clients.

Tortious Interference with Business Relations

Trajectory-Level intentionally delayed the transfer of Drew’s clients’ accounts to Drew’s new firm after the account transfer paperwork had been submitted, in direct violation of FINRA Rule 2140: Interfering With the Transfer of Customer Accounts in the Context of Employment Disputes. As a result, Drew’s reputation with (his)(her) clients was damaged.

RELIEF REQUESTED

Based upon the foregoing, Drew Moore requests that the Statement of Claim be dismissed in its entirety, and requests an award on (his)(her) Counterclaim against Counter-Respondent Trajectory-Level for compensatory damages in the amount of no less than \$241,250, and costs and attorneys’ fees associated with the filing of this arbitration.

From: Drew Moore <d.moore@mmail.com>
Sent: Friday, May 31, 2013 5:45 PM
To: Alex Hearth <alex.hearth@trajectory.com>
Subject: Can't Wait

Alex,

It's been great speaking with you over the past few weeks and to be joining Trajectory. I am really excited that you were able to get me the corner office, the two sales assistants, and the Bloomberg terminal. This should really help me continue to deliver the high quality customer service my clients have come to expect.

I also can't express how happy I am to see that Trajectory offers a 50% payout. I work hard and it's nice to see that rewarded.

I'll meet you at the office on Monday morning to sign all of the paperwork and begin working.

Have a great weekend.

Warm regards,
Drew

Exhibit 1

May 4, 2015

Dear [customer],

I am writing to inform you that your broker, Drew Moore, is no longer employed with Trajectory-Level. I apologize for the sudden departure of your broker, but I want to assure you that your account will soon be assigned to a new broker with integrity.

In the interim, you are invited to call me if you have any questions or concerns about how your account had been handled by your prior broker. I want to thank you for your continued trust and confidence in myself and Trajectory-Level.

Sincerely,

Alex Hearth

Alex Hearth
Regional Managing Director

FINRA DISPUTE RESOLUTION, INC.

-----X

In the Matter of the Arbitration Between: :

TRAJECTORY-LEVEL BROKERAGE FIRM, INC. :

Claimant/Counter-Respondent, :

FINRA Case No. 15-012345

vs. :

Statement of Answer
to Respondent's Counterclaim

DREW MOORE :

Respondent/Counter-Claimant. :

-----X

This Statement of Answer to Respondent's Counterclaim is filed on behalf of Trajectory-Level Brokerage Firm, Inc.

Trajectory-Level denies all allegations set forth in the Counterclaim. The Counterclaim is merely an attempt to avoid a debt that Respondent Drew owes to Trajectory-Level.

Trajectory-Level entered into the Note in good faith. Trajectory-Level provided Drew with the money it promised pursuant to the Note, \$500,000. Any other discussions between Drew and Alex at the time Drew joined Trajectory were not part of that contract. While Drew and Alex did discuss certain initial benefits Drew requested at the time (s)he joined Trajectory, there was never any obligation on the part of Trajectory to provide those services for any set period of time. As a result of a reorganization of the business, management decided that it could no longer afford to provide Drew with (his)(her) own office or sales assistants. This was a business decision which was at the discretion of Trajectory-Level.

Over time Drew's production fell because Drew was distracted by personal issues. Any decline in production was not the fault of Trajectory-Level.

The letter sent by Alex after the departure of Drew was wholly truthful and did not contain any defamatory statements. There was no damage to Drew's reputation as a result of the letter being sent.

To the extent there was any delay in transfer of any accounts following the receipt of account transfer forms, it was a result of issues with the integration of the computer systems following Trajectory-Level's merger. The delays were not in violation of FINRA Rule 2140. There was no tortious interference with any business relations.

Accordingly, Trajectory-Level requests that Drew Moore's Counterclaims be dismissed in their entirety.

FINRA ARBITRATION Submission Agreement

Claimant(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)
Trajectory-Level Brokerage Firm, Inc.

and

Name(s) of Respondent(s)
Drew Moore

1. The undersigned parties (“parties”) hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

Trajectory-Level Brokerage Firm, Inc.

Claimant Name (please print)

Alex Hearth Regional Managing Director

June 15, 2015

Claimant’s Signature

Date

State capacity if other than individual (e.g., executor, trustee or corporate officer)

FINRA ARBITRATION Submission Agreement

Respondent(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)

Trajectory-Level Brokerage Firm, Inc.

and

Name(s) of Respondent(s)

Drew Moore

-
1. The undersigned parties ("parties") hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
 2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
 3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
 4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
 5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

Drew Moore

 Respondent Name (please print)



July 1, 2015

 Respondent's Signature

Date

 State capacity if other than individual (*e.g.*, executor, trustee or corporate officer)

TRIATHLON REQUESTS FOR CLARIFICATION 2015

1. What is the breakdown of Drew's Asset Base, i.e. Transaction commission versus the WRAP Fee Accounts?

A: Please refer to the facts as written. No further details will be provided.

2. What was Drew's relative standing post-merger as compared to other Trajectory representatives post merger?

A: Different Trajectory employees had different standings post merger as compared to their standings prior to the merger.

3. What is the U-5 wording of Drew's departure?

A: The reason for termination was "Voluntary."

4. What is the breakdown of client assets, i.e. proprietary funds illiquid investments/nontransferable assets?

A: Please refer to the facts as written. No further details will be provided.

5. Is Global a member of the ACAT system?

A: All of the customer account transfer requests were processed through the Automated Customer Account Transfer Service (ACATS).

6. What type of support did Drew have at Private, i.e. number of assistants, terminal access, office arrangement etc.?

A: At Private, Drew received sufficient support for himself and his customers.

7. Is Drew a preferred employee under the ADA?

A: No.

8. How many Trajectory employees also quit as a penalty of the merger?

A: Please refer to the facts as written. No further details will be provided.

9. What jurisdiction is the applicable law for the breach of contract, tortious interference, and defamation claims?

A: Please refer to the Triathlon Rule on Controlling Law (Rule XIV). State annotations will not apply.

10. In the Mediation and Negotiation portions of the competition, can our clients answer questions presented by opposing counsel? Alternatively, can our team direct questions to opposing counsel's client?

A: There are no restrictions on interacting with the opposing side's client during the Negotiation or Mediation rounds of the competition.

11. Is "forgive" being used as a term of art as it relates to the loan repayments?

A: In this context, "forgive" is defined as it generally is when referring to debt forgiveness. The debt that is due is cancelled, and need not be paid.

12. In reference to the Mediation round: will this operate like a traditional mediation, where the mediator takes an active role in the settlement discussion, or will he/she serve more as a referee?

A: Mediators have different styles and approaches; teams should be prepared to adjust to their assigned mediator's style and approach.