

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 00-00367

Robert E. Leib

Name of the Respondent

Hearing Site: Philadelphia, Pennsylvania

First Union Securities, Inc. k/n/a
Wachovia Securities, Inc.

REPRESENTATION OF PARTIES

Claimant Robert E. Leib, hereinafter referred to as "Claimant", was represented by Larry M. Keller, Esq., Sidkoff, Pincus & Green, P.C., Philadelphia, Pennsylvania.

Respondent First Union Securities, Inc. k/n/a Wachovia Securities, Inc., hereinafter referred to as "Respondent", was represented by Brian A. Carlis, Esq., Stark & Stark, Princeton, New Jersey.

CASE INFORMATION

Statement of Claim filed on January 25, 2000.

Claimant signed the Uniform Submission Agreement on January 22, 2000.

Statement of Answer and Counterclaim filed by Respondent on July 19, 2000.

Patrick Dennis, Vice-President and Assistant General Counsel, executed Respondent's Uniform Submission Agreement on June 12, 2000.

Statement of Answer to Counterclaim with Affirmative Defenses filed by Claimant on August 29, 2000.

CASE SUMMARY

Claimant asserted the following causes of action, among others: breach of contract; breach of custom and usage; fraud; conversion; and, invasion of privacy. The causes of action relate to Claimant's employment with Respondent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; statute of frauds; failure to mitigate; there was no oral agreement between the parties; and, Claimant failed to satisfy conditions precedent.

Respondent, in its Counterclaim, asserted a cause of action for breach of contract. The cause of action relates to a promissory note.

Unless specifically admitted in his Answer, Claimant denied the allegations made in the Counterclaim and asserted the following defenses: failure to state a claim upon which relief may be granted; Respondent's breach of contract bars its claim against Claimant; fraud; and, claim barred by practices and customs in the securities industry.

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$1,940.46 - \$1,000,000.00
Interest	amount unspecified
Other Costs	amount unspecified

Respondent in its Counterclaim requested:

Compensatory Damages	\$36,194.80
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

OTHER ISSUES CONSIDERED AND DECIDED

At the November 6, 2002 hearing, Claimant orally moved to amend his damage request. The Panel granted the motion.

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. Claimant's claims are denied in their entirety;
2. Claimant shall pay Respondent compensatory damages in the amount of \$36,194.80;
3. Claimant shall pay Respondent \$10,181.61 in pre-judgment interest;
4. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

Member surcharge = \$ 2,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 3,500.00

Total Member Fees = \$ 6,100.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 23-26, 2001 adjournment requested by Claimant = \$ 1,200.00

March 5-7, 2002 adjournment requested by Claimant = \$ 1,500.00

June 18-20, 2002 adjournment requested by Respondent = \$ 1,200.00

November 7-8, 2002 adjournment requested by Respondent = \$ 1,500.00

1. The Panel has assessed \$2,700.00 of the adjournment fees to Claimant.
2. The Panel has assessed \$2,700.00 of the adjournment fees to Respondent.

Forum Fees and Assessments

The Panel has assessed forum 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 Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: June 1, 2001 1 session

Eleven (11) Hearing sessions @ \$1,200.00 = \$13,200.00

Hearing Dates: November 6, 2002 1 session

March 12, 2003 2 sessions

March 13, 2003 2 sessions

March 14, 2003 2 sessions

May 8, 2003 2 sessions

May 9, 2003 2 sessions

Total Forum Fees = \$14,400.00

1. The Panel has assessed \$7,800.00 of the forum fees to Claimant.
2. The Panel has assessed \$6,600.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant requested copies of tapes = \$ 255.00

SEE SUMMARY

1. Claimant is assessed the following fees:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 2,700.00
Forum Fees	= \$ 7,800.00
<u>Administrative Costs</u>	<u>= \$ 255.00</u>
Total Fees	= \$11,130.00
<u>Less payments</u>	<u>= \$ 1,440.00</u>
Balance Due NASD Dispute Resolution	= \$ 9,690.00

2. Respondent is assessed the following fees:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
Adjournment Fee	= \$ 2,700.00
<u>Forum Fees</u>	<u>= \$ 6,600.00</u>
Total Fees	= \$16,400.00
<u>Less payments</u>	<u>= \$ 8,300.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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

ARBITRATION PANEL

Sheldon Kapustin, Esq.	-	Public Arbitrator, Presiding Chairperson
Scott L. Peters, Esq.	-	Public Arbitrator, Panelist
Bernard Bujak	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Sheldon Kapustin

Sheldon Kapustin, Esq.
Public Arbitrator, Presiding Chairperson

7/2/03

Signature Date

Scott L. Peters, Esq.
Public Arbitrator, Panelist

Signature Date

Bernard Bujak
Non-Public Arbitrator, Panelist


Signature Date

July 9, 2003
Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

Signature Date



Scott L. Peters, Esq.
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Signature Date

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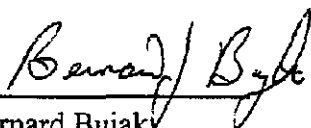
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