

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

James Reynolds, Claimant v. Wedbush Morgan Securities Inc., Respondent

Case Number: 00-00757

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant James Reynolds:

Dennis W. Rihn, Esq.  
Law Offices of Dennis W. Rihn  
Glendale, California

Jonathan W. Evans, Esq.  
Jonathan Evans & Associates  
Los Angeles, California

For Respondent Wedbush Morgan Securities Inc.:

Timothy Will, Esq.  
Albert & Will, LLP  
Torrance, California

**CASE INFORMATION**

Statement of Claim filed: February 2, 2000

Claimant's Uniform Submission Agreement signed: February 9, 2000

Statement of Answer filed by Respondent: May 2, 2000

Respondent's Uniform Submission Agreement signed: May 2, 2000

**CASE SUMMARY**

Claimant alleged age discrimination in violation of the Fair Employment and Housing Act [California Govt. Code Sec.12840 et seq.], breach of contract, breach of implied covenant of good faith and fair dealing, wrongful termination, intentional infliction of emotional distress, and negligent infliction of emotional distress involving the termination of his employment with Respondent.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$187,550.00, interest of 10% from November 30, 1998, unspecified punitive damages, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

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

On August 24, 2001, Respondent moved the Panel to dismiss the Statement of Claim. A pre-hearing conference attended by the parties and the Panel was held on October 15, 2001. After due deliberation in an executive session, the Panel denied Respondent's Motion to Dismiss.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) *Claimant's claims are denied in their entirety. The panel found that Claimant failed to present evidence sufficient to sustain a cause of action pursuant to the Fair Employment and Housing Act [California Govt. Code Sec.12840 et seq.].*
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code and to the California Supreme Court's ruling in *Armendariz v. Foundation Health Psychcare Services, Inc.* 24 Cal. 4<sup>th</sup> 83, 6 P. 3d 669, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wedbush Morgan Securities Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$2,500.00
<b>Total Member Fees</b>	<b>= \$4,600.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

November 5 – 9, 2001 and November 12 – 13, 2001 Hearing Dates, adjournment requested by Respondent	= \$1,125.00
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#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session = \$ 1,350.00

Pre-hearing conferences:	February 6, 2002	1 session
	March 13, 2002	1 session
	May 23, 2002	1 session

Three (3) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 3,375.00

Pre-hearing conferences:	January 23, 2001	1 session
	October 15, 2001	1 session
	November 8, 2001	1 session

Twenty-one (21) Hearing sessions @ \$1,125.00/session = \$23,625.00

Hearings:	June 10, 2002	1 session
	June 11, 2002	2 sessions
	June 12, 2002	2 sessions
	June 13, 2002	2 sessions
	June 17, 2002	2 sessions
	June 18, 2002	2 sessions
	June 19, 2002	2 sessions
	September 3, 2002	2 sessions
	September 4, 2002	2 sessions
	September 5, 2002	2 sessions
	September 6, 2002	2 sessions

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**Total Forum Fees** = \$28,350.00

The Panel waived \$1,125.00 of the forum fees for the June 10, 2002 hearing session.

The Panel assessed \$27,225.00 of the forum fees to Respondent Wedbush Morgan Securities Inc.

#### Fee Summary

1. Claimant James Reynolds is charged with the following fees and costs:

Initial Filing Fee pursuant to Armendariz	= \$ 200.00
<u>Less payments</u>	= \$ (2,125.00)
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$ (1,925.00)</b>

2. Respondent Wedbush Morgan Securities Inc. is charged with the following fees and costs:

Balance due on Claimant's Filing Fee pursuant to Armendariz	= \$ 100.00
Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	<u>= \$27,225.00</u>
<b>Total Fees</b>	<b>= \$33,050.00</b>
<u>Less payments</u>	<u>= \$ (6,100.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$26,950.00</b>

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

**ARBITRATION PANEL**

<i>Donald S. Simons, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>John E. Ohashi, Esq.</i>	-	<i>Public Arbitrator</i>
<i>David Zollman</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Donald S. Simons, Esq.  
Chair, Public Arbitrator

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Signature Date

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John E. Ohashi, Esq.  
Public Arbitrator

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Signature Date

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David Zollman  
Public Arbitrator

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Signature Date

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Date of Service

ARBITRATION PANEL

*Donald S. Simons, Esq.*

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*Public Arbitrator, Presiding Chair*

*John E. Ohashi, Esq.*

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*Public Arbitrator*

*David Zollman*

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*Public Arbitrator*

Concurring Arbitrators' Signatures



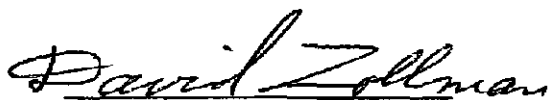
Donald S. Simons, Esq.  
Chair, Public Arbitrator



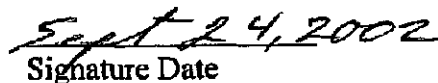
Signature Date

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John E. Ohashi, Esq.  
Public Arbitrator

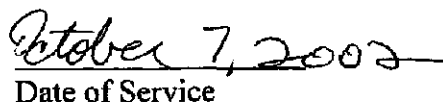
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Signature Date



David Zollman  
Public Arbitrator



Signature Date



Date of Service