

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

WELLS FARGO BROKERAGE SERVICES, LLC f/k/a NORWEST
INVESTMENT SERVICES, INC.

and

00-5530
Denver, Colorado

Name of Respondents

DOUGLAS H. HANSON

REPRESENTATION OF PARTIES

Wells Fargo Brokerage Services, LLC ("**Claimant**") was represented by Jonathan D. Bergman, Thomas P. Johnson. Davis, Graham & Stubbs, LLP, Denver, Colorado.

Douglas H. Hanson ("**Respondent**") was represented by Bruce E. Rhode, Davis & Ceriani, PC, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about December 13, 2000. Submission Agreement of Claimant Wells Fargo Brokerage Services, LLC was signed on December Respondent, 2000.

Statement of Answer was filed by Respondent Douglas H. Hanson on or about February 6, 2001.

CASE SUMMARY

Claimant asserted breach of contract alleging:

- Wells Fargo Brokerage Services fully preformed its obligation under the Margin Agreement and Letter Agreement and all conditions precedent to initiation and maintenance of the breach of contract had been preformed or had occurred.
- Respondent breached the obligation in the Margin Agreement and the Letter Agreement, by among other things, failing to meet the margin requirement for the Loan specified in the Margin and Letter Agreement and failing to pay amounts due under the Loan (including accrued interest) upon demanded by Wells Fargo Brokerage Services.

The Loan is in default and Wells Fargo Brokerage Services is entitled to the amount of the Loan Balance (principle and accrued interest) minus any proceeds obtained by Wells Fargo Brokerage Services from the sale of Pledged Securities and any other securities in the Margin Account.

Unless specifically admitted in its Answer, Respondent Douglas H. Hanson, denied the allegations made in the Statement of Claim and asserted the following defenses:

- The agreement between Wells Fargo Brokerage Services, LLC Respondent which forms the basis of Wells Fargo Brokerage Services, LLC's claim was modified and Wells Fargo Brokerage Services, LLC claim is barred by its prior breach of the modified agreement.
- Respondent has paid any amounts he is currently obligated to Wells Fargo Brokerage Services, LLC.
- Wells Fargo Brokerage Services, LLC is barred from recovering the amounts it seeks as a result of its breach of its duty to Respondent as a secured creditor.
- Wells Fargo Brokerage Services, LLC is estopped, legally and/or equitably from recovering the amount it seeks.
- Respondent is entitled to set-off, from any accounts he may owe Wells Fargo Brokerage Services, LLC, the amounts of Wells Fargo Brokerage Services, LLC owe him on his claims.
- Respondent is entitled to recoup from Wells Fargo Brokerage Services, LLC any amounts Wells Fargo Brokerage Services, LLC owe him on his claims.

Respondent asserted the following Counterclaims against Claimant

- Wells Fargo Brokerage Services, LLC breached its contract with Respondent by selling the Pledged Securities after it promised Respondent that it would not do so. As a result, Respondent suffered damages and all conditions to be performed on Respondent's part have been performed or excused.
- Wells Fargo Brokerage Services, LLC Breached the implied covenant of good faith and fair dealing. Respondent alleged that under the Margin Agreement, Wells Fargo Brokerage Services, LLC had a certain amount of discretion in the disposition of the Pledged Securities. Wells Fargo Brokerage Services, LLC has the duty to exercise good faith and to deal fairly with Respondent, particularly with the respect to the disposition of the Pledged Securities and Respondent alleges that Wells Fargo Brokerage Services, LLC breached that duty.
- As a secured creditor, Wells Fargo Brokerage Services, LLC had the duty to preserve the value of the Pledged Securities. Respondent alleged that Wells Fargo Brokerage Services, LLC breached its duty to preserve the value of Pledged Securities and as a direct and proximate result, Respondent suffered damages.

- Wells Fargo Brokerage Services, LLC has the duty to dispose of the Pledged Securities, upon default, in a commercially reasonable fashion. If Respondent was in default under the Margin Agreement (which he denied), then Wells Fargo Brokerage Services, LLC breached its duty to dispose of the Pledged Securities in a commercially reasonable fashion. As a direct and proximate result of Wells Fargo Brokerage Services, LLC's breach, he suffered damages.

Unless Specifically admitted in its Answer to Claims Asserted by Counter-Claimant Hanson, Claimant Wells Fargo Brokerage Services denied the allegations in the Counterclaim and asserted the following defenses:

- Respondent's claims fail to state a claim upon which relief can be granted.
- Respondent's claims are barred or reduced by his own non-performance and breach of the Margin Agreement and the Letter Agreement.
Respondent's claims are barred by the doctrines of waiver, estoppel and unclean hands.
- Respondent's claims are barred because he released all claims against Wells Fargo Brokerage Services, LLC in the Letter of the Agreement.
- To the extent the Respondent's claims are based on alleged oral agreement, they are barred by the statute of frauds.
- Respondent's claims are barred or reduced by the doctrines of set-off, recoupment and counterclaim.

RELIEF REQUESTED

| | |
|--|----------------|
| Claimant requested | |
| Compensatory Damages | \$7,244,827.36 |
| Attorney's Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary / Non-Monetary Relief, if any | Unspecified |
| Respondent Requested: | |
| Compensatory Damages | Unspecified |
| Attorney's Fees | Unspecified |
| Other Costs | Unspecified |

OTHER ISSUES CONSIDERED & DECIDED

Respondent Douglas H. Hanson did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Based upon the Breach of contract claim filed by Claimant Wells Fargo Brokerage Services, Claimant is awarded \$7,244,827.36 in compensatory damages.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$2,500

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. In this matter, the member firm(s) is Wells Fargo Brokerage Services, LLC

Member surcharge = \$3,000

| | |
|-------------------------|-----------|
| Pre-hearing process fee | = \$600 |
| Hearing process fee | = \$5,000 |

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

| | |
|--|-----------|
| 1 Pre-hearing session(s) with Panel x \$1,200 | = \$1,200 |
| Pre-hearing conference(s): Date 6/29/2001 1 session | |

| | |
|--|-----------|
| 8 Hearing sessions x \$1,200 | = \$9,600 |
| Hearing Date(s): 5/6/2002 2 sessions | |
| 5/7/2002 2 sessions | |
| 5/8/2002 2 sessions | |
| 5/9/2002 2 sessions | |

| | |
|------------------|------------|
| Total Forum Fees | = \$10,800 |
|------------------|------------|

The Arbitration Panel has assessed \$5,400 of the forum fees to Wells Fargo Brokerage Services, LLC.

The Arbitration Panel has assessed \$5,400 of the forum fees to Douglas H. Hanson.

Fee Summary

Claimant, Wells Fargo Brokerage Services, LLC, shall be and hereby is liable for:

| | |
|---|-------------|
| Initial Filing Fee | = \$ 2,500 |
| Member Fees | = \$ 3,000 |
| <u>Forum Fees</u> | = \$ 5,400 |
| Processing Fees | = \$ 5,600 |
| Total Fees | = \$ 16,500 |
| <u>Less payments</u> | = \$ 7,300 |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 9200 |

Respondent, Douglas H. Hanson, shall be and hereby is liable for:

| | |
|-------------------|------------|
| <u>Forum Fees</u> | = \$ 5,400 |
| Total Fees | = \$ 5,400 |

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| | |
|---|-------------------|
| <u>Less payments</u> | <u>= \$ 1,000</u> |
| Balance Due NASD Dispute Resolution, Inc. | <u>= \$ 4,400</u> |

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Rhonda Rhodes, Esq. - Public Arbitrator, Presiding Chair
Malcolm Crawford, Esq. - Public Arbitrator
Richard Reider - Non-Public Arbitrator

Concurring Arbitrators:

Rhonda Rhodes, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Malcolm Crawford, Esq.
Public Arbitrator

Signature Date

Richard Reider
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 00-5530
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Less payments

Balance Due NASD Dispute Resolution, Inc.

= \$ 1,000

= \$ 4,400

All balances are due to NASD Dispute Resolution, Inc.

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Malcolm Crawford, Esq. - Public Arbitrator
Richard Reider - Non-Public Arbitrator

Concurring Arbitrators:

Rhonda Rhodes, Esq.
Public Arbitrator, Presiding Chair

Malcolm Crawford, Esq.
Public Arbitrator

Signature Date

May 25, 02
Signature Date

Richard Reider
Non-Public Arbitrator

Signature Date

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Less payments

Balance Due NASD Dispute Resolution, Inc.

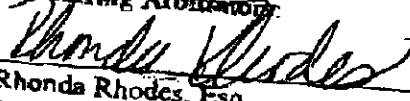
= \$ 1,000
= \$ 4,400

All balances are due to NASD Dispute Resolution, Inc.

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Malcolm Crawford, Esq. - Public Arbitrator
Richard Reider - Non-Public Arbitrator

Concurring Arbitrator:


Rhonda Rhodes, Esq.
Public Arbitrator, Presiding Chair

5/30/02
Signature Date

Malcolm Crawford, Esq.
Public Arbitrator


Richard Reider
Non-Public Arbitrator

Signature Date

5/28/2002
Signature Date