

**Award**  
**NASD Dispute Resolution, Inc.**

---

In the Matter of the Arbitration Between:

Scott Schaefer, (Claimant) vs. BNP Paribas Securities Corp., (Respondent)

Case Number: 01-00661

Hearing Site: New York, New York

---

**REPRESENTATION OF PARTIES**

Claimant, Scott Schaefer, hereinafter referred to as "Claimant": Robert M. Bursky, Esq., Wechsler Bursky & Cohen, LLP, New York, NY.

Respondent, BNP Paribas Securities Corp., hereinafter referred to as "Respondent": Andrew B. Lachow, Esq., Seyfarth Shaw, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 7, 2001.

Claimant signed the Uniform Submission Agreement: December 21, 2000.

Statement of Answer filed by Respondent on or about: May 9, 2001.

Respondent signed the Uniform Submission Agreement: May 8, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of express and/or implied contract; quantum meruit; unjust enrichment; constructive termination; and violation of the Employee Retirement Income Securities Act of 1974 ("ERISA").

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; Claimant's claims are barred in whole or in part by the doctrine of estoppel; Claimant received all commissions due him for any services he performed or allegedly performed on behalf of Respondent; Claimant's claims arising under any purported implied and/or quasi-contract, and/or under the theories of unjust enrichment or restitution, are barred by the existence of the parties' express written contracts; and Claimant's claim for severance is barred because he failed to exhaust the administrative procedures available to him under the applicable ERISA plan.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the approximate amount of \$2,335,040.00, plus interest, attorneys' fees, costs, and disbursements.

Respondent requested that the Panel enter an Award:

1. Dismissing the Statement of Claim in its entirety;
2. Awarding Respondent its costs and disbursements, including attorneys' fees, incurred in this action; and
3. Granting Respondent such other and further relief as the Panel deems just and proper.

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

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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety.
2. Claimant be and hereby is liable for and shall pay to Respondent the sum of \$20,000.00 as attorneys' fees. The Panel awarded attorneys' fees based upon the submissions provided by the parties at the hearing regarding their requests for attorneys' fees.
3. All other requests for relief are hereby denied.

### **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	= \$ 500.00
--------------------------	-------------

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, BNP Paribas Securities Corp. is a party.

Member surcharge	= \$ 2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00

**Adjournment Fees**

Adjournments requested during these proceedings:

Jan. 9, 10 & 11, Feb. 25 & 28, & Mar. 1, 2002, adjournment by both parties	= WAIVED
---	----------

**Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference:      October 15, 2001      1 session	

Ten (10) Hearing sessions x \$1,200.00	= \$12,000.00
Hearing Dates:      January 28, 2002      2 sessions	
March 21, 2002      2 sessions	
March 22, 2002      2 sessions	
April 2, 2002      2 sessions	
April 17, 2002      2 sessions	

---

Total Forum Fees	= \$13,200.00
------------------	---------------

The Panel has assessed all of the forum fees against Claimant.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$13,200.00</u>
Total Fees	= \$13,700.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$12,000.00

2. Respondent be and hereby is solely liable for:

<u>Member Fees</u>	<u>= \$ 7,600.00</u>
Total Fees	= \$ 7,600.00
<u>Less payments</u>	<u>= \$ 7,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Gilbert F. Bach, Sr., Esq.	-	Industry Arbitrator, Presiding Chair
Theodore Brown	-	Industry Arbitrator
John A. McAuliffe	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Gilbert F. Bach, Sr., Esq.  
Industry Arbitrator, Presiding Chair

May 1, 2002  
Signature Date

Theodore Brown  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

John A. McAuliffe  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

May 9, 2002  
Date of Service (For NASD office use only)


**ARBITRATION PANEL**

Gilbert F. Bach, Sr., Esq.	-	Industry Arbitrator, Presiding Chair
Theodore Brown	-	Industry Arbitrator
John A. McAuliffe	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Gilbert F. Bach, Sr., Esq.  
Industry Arbitrator, Presiding Chair

  
\_\_\_\_\_  
Theodore Brown  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John A. McAuliffe  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
May 9, 2002  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 01-00661  
Award Page 7

---

**ARBITRATION PANEL**

Gilbert F. Bach, Sr., Esq.	-	Industry Arbitrator, Presiding Chair
Theodore Brown	-	Industry Arbitrator
John A. McAuliffe	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**


I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

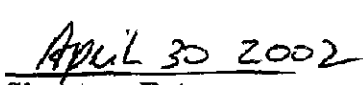
\_\_\_\_\_  
Gilbert F. Bach, Sr., Esq.  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Theodore Brown  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
John A. McAuliffe  
Industry Arbitrator

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
May 9, 2002  
Date of Service (For NASD office use only)