

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Phuc Quang Le, Claimant v. WMA Securities, Inc. and S. Hubert Humphrey, Respondents

Case Number: 01-01767

Hearing Site: Tampa, Florida

REPRESENTATION OF PARTIES

For Phuc Quang Le, hereinafter referred to as "Claimant": Marc S. Dobin, Esq., Dobin & Jenks, LLP, Jupiter, Florida.

For WMA Securities, Inc. ("WMA") and S. Hubert Humphrey ("Humphrey"), hereinafter collectively referred to as "Respondents": David E. Spalten, Esq., Merritt & Tenney, LLP, Atlanta, Georgia. On or about August 16, 2001, Katherine C. Lake, Esq., Fowler, White, Gillen, Boggs, Villareal and Banker, P.A., Tampa, Florida, appeared as substitute counsel for Respondents.

CASE INFORMATION

Statement of Claim filed: April 6, 2001.

Claimant's Uniform Submission Agreement signed: April 4, 2001.

Respondent WMA's Uniform Submission Agreement signed: July 10, 2001.

Respondent Humphrey's Uniform Submission Agreement signed: July 11, 2001.

Response to Statement of Claim, Motion to Strike Certain Portions of the Statement of Claim and Motion to Dismiss as to Respondent Humphrey, filed by Respondents: August 27, 2001.

Response to Respondents' Motion to Strike Certain Portions of the Statement of Claim and Motion to Dismiss as to Respondent Humphrey, filed by Claimant: September 28, 2001.

Reply Brief in Support of their Motion to Strike Certain Portions of the Statement of Claim and their Motion to Dismiss, filed by Respondents: October 12, 2001.

First Amendment to Statement of Claim filed: November 16, 2001.

Response and Motion to Dismiss the Claimant's Amendment to the Statement of Claim, filed by Respondents: November 29, 2001.

CASE SUMMARY

Claimant alleged the following causes of action: 1) bad faith mediation; 2) unfair and wrongful termination, including failure to pay commissions and breach of implied covenant of good faith and fair dealing; and 3) unspecified employment discrimination.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and First Amendment to Claimant's Statement of Claim. Respondents asserted the following defenses: 1) there is no claim for breach of the duty of good faith and fair dealing; 2) Claimant failed to state a claim for discrimination; and 3) there is no individual liability as to Respondent Humphrey under Title VII of the Florida Civil Rights Act.

RELIEF REQUESTED

Claimant requested: 1) modification of his Form U-5 to remove false and defamatory language; 2) compensatory damages in the amount of \$250,00.00 for pre-termination commissions and overrides; 3) compensatory damages in the amount of at least \$2,000,000.00 for earned continuing commissions that should have been paid between the date of termination and the date of the Statement of Claim, an amount equivalent to a reasonably calculated present value of the continuing commissions for ten years; 4) damages for Claimant's expenses incurred in connection with mediation, including at least \$5,000.00 in attorneys' fees and \$1,000.00 in travel expenses; 5) costs; and 6) attorneys' fees.

Respondents requested: 1) the undersigned arbitrators (the "Panel") to strike Claimant's allegations related to mediation and to sanction Claimant's counsel; 2) the Panel to dismiss Claimant's claims against Respondent Humphrey; 3) the Panel to deny Claimant's claims, or alternatively, to accept the Respondents' damages calculations set forth in its post-hearing brief; and 4) attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On November 8, 2001, the Panel conducted a telephonic pre-hearing conference with the parties on Respondents' Motion to Strike Certain Portions of the Statement of Claim and Motion to Dismiss as to Respondent Humphrey. At the pre-hearing conference, an additional issue arose as to whether the Claimant was asserting employment discrimination as a basis for recovery in his claim and, if such, whether either of the parties would object to the composition of the Panel under Section 10211 of the NASD Code of Arbitration Procedure (the "Code").

On November 9, 2001, the Panel ordered that: 1) Claimant had until November 16, 2002 to amend his Statement of Claim to reflect employment discrimination as a basis for recovery in his claim; 2) Respondents had until November 30, 2001 to file their Response to the Amended

Statement of Claim; 3) no reply briefs shall be filed; 4) objections to the composition of the Panel should be filed by November 30, 2001; and 5) Respondents' motions were held in abeyance until such time that the final composition of the Panel was determined.

On November 28, 2001, Respondents filed their notice of acceptance of the Panel's composition.

Claimant did not file an objection to the Panel's composition.

At the close of the evidentiary hearing on February 21, 2002, the Panel requested the parties to brief the Panel on certain issues. The Panel ordered a deadline of March 1, 2002 for the parties to deliver their briefs. The Panel received briefing materials and argument exchanged by the parties as of March 1, 2002.

On January 10, 2002 and after careful consideration, the Panel ordered that: 1) Respondents' Motion to Strike Certain Portions of the Statement of Claim related to mediation is denied; 2) Respondents' Motion to Strike Certain Portions of the Statement of Claim related to employment discrimination is denied; 3) Respondents' Motion to Dismiss Respondent Humphrey as a respondent is denied, subject to the proviso of paragraph 4 herein; and 4) Respondents' Motion to Dismiss Respondent Humphrey as a respondent to that part of the Statement of Claim related to employment discrimination is granted.

On March 5, 2002, NASD Dispute Resolution received Claimant's post-hearing response brief. On March 5, 2002, Respondents filed their written objection to the Claimant's post-hearing response brief. After careful consideration, the Panel ordered that it would only entertain and otherwise consider post-hearing briefing materials and arguments exchanged by the parties as of March 1, 2002.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) On that part of the Statement of Claim regarding mediation, the Panel finds for the Respondents.
- 2) On that part of the Statement of Claim regarding employment discrimination, the Panel finds for Respondent WMA. Earlier the Panel had dismissed Claimant's employment discrimination claim as it pertained to Respondent Humphrey.
- 3) On that part of the Statement of Claim regarding wrongful termination as it pertains to

Respondent Humphrey, the Panel finds for Respondent Humphrey.

- 4) On that part of the Statement of Claim regarding wrongful termination as it pertains to Respondent WMA, the Panel finds for Claimant. Respondent WMA is liable and shall pay to Claimant compensatory damages in the amount of \$225,155.00.
- 5) Each party shall be responsible for its own attorneys' fees.
- 6) The Panel recommends that Claimant's registration records maintained by the NASD Central Registration Depository be modified to reflect the results of this arbitration.
- 7) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 500.00
--------------------------	-------------

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm, Respondent WMA, is a party.

Member Surcharge	= \$2,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$4,500.00
Total Member Fees	= \$7,600.00

Adjournment Fees

The following adjournment fees are assessed:

There were no adjournments requested during these proceedings.

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/Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: January 24, 2002 1 session	

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: September 12, 2001 1 session	

November 8, 2001 1 session

(6) Hearing sessions @ \$1,200.00/session = \$7,200.00

Hearings: February 19, 2002 2 sessions
February 20, 2002 2 sessions
February 21, 2002 2 sessions

Total Forum Fees = \$10,050.00

The Panel assessed \$5,025.00 of the forum fees to Claimant.

The Panel assessed \$5,025.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$5,025.00
Total Fees	= \$5,525.00
<u>Less payments</u>	= \$1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$3,825.00

Respondent WMA is charged with the following fees and costs:

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

Respondents are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$5,025.00
Total Fees	= \$5,025.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$5,025.00

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

ARBITRATION PANEL

<i>Thomas J. Patka, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Peter F. Crowell</i>	-	<i>Non-Public Arbitrator</i>
<i>Donald R. Ormrod, Sr.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Thomas J. Patka, Esq.
Chair, Public Arbitrator

Signature Date

/s/
Peter F. Crowell
Non-Public Arbitrator

Signature Date

/s/
Donald R. Ormrod, Sr.
Public Arbitrator

Signature Date

April 4, 2002
Date of Service

NASD Dispute Resolution, Inc.
Arbitration No. 01-01767
Award Page 6 of 6

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

ARBITRATION PANEL

<i>Thomas J. Patka, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Peter F. Crowell</i>	-	<i>Non-Public Arbitrator</i>
<i>Donald R. Ormrod, Sr.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures



Thomas J. Patka, Esq.
Chair, Public Arbitrator

3/29/02
Signature Date

Peter F. Crowell
Non-Public Arbitrator

Signature Date

Donald R. Ormrod, Sr.
Public Arbitrator

Signature Date

Date of Service

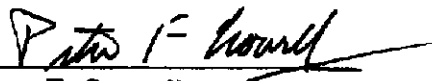
All balances are payable to NASD Dispute Resolution, Inc. and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Thomas J. Patka, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Peter F. Crowell</i>	-	<i>Non-Public Arbitrator</i>
<i>Donald R. Ormrod, Sr.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

Thomas J. Patka, Esq.
Chair, Public Arbitrator



Peter F. Crowell
Non-Public Arbitrator

Signature Date

4/2/02

Signature Date

Donald R. Ormrod, Sr.
Public Arbitrator

Signature Date

Date of Service

NASD Dispute Resolution, Inc.
Arbitration No. 01-01767
Award Page 6 of 6

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

ARBITRATION PANEL

Thomas J. Patka, Esq.	•	Public Arbitrator, Presiding Chair
Peter F. Crowell	•	Non-Public Arbitrator
Donald R. Ormrod, Sr.	•	Public Arbitrator

Concurring Arbitrators' Signatures

Thomas J. Patka, Esq.
Chair, Public Arbitrator

Signature Date

Peter F. Crowell
Non-Public Arbitrator

Signature Date

Donald R. Ormrod Sr.
Donald R. Ormrod, Sr.
Public Arbitrator

March 28, 2002
Signature Date

Date of Service