

**Award
NASD**

In the Matter of the Arbitration Between:

Name of the Claimant
Mark P. Podber

Case Number: 02-01089

Names of the Respondents
Interstate Johnson Lane/
Wachovia, Inc.
Mark Silva

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For Mark P. Podber, hereinafter referred to as "Claimant": Nick A. Dodys, Esq., Crowley, Appel, Starkey & Holbrook, LLC, Atlanta, Georgia.

For Interstate Johnson Lane/Wachovia, Inc. ("Wachovia") and Mark Silva ("Silva"), hereinafter collectively referred to as "Respondents": Thomas B. Lewis, Esq., Stark & Stark, Lawrenceville, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: February 22, 2002.

Claimant Mark P. Podber's Statement of Answer to Respondents' Counterclaims filed on or about: May 9, 2002.

Claimant signed the Uniform Submission Agreement: March 11, 2002.

Statement of Answer, Affirmative Defenses and Counterclaim filed by Respondents on or about: April 23, 2002.

Respondent Wachovia signed the Uniform Submission Agreement: March 22, 2002.

Respondent Silva signed the Uniform Submission Agreement: June 21, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise; negligence; common law fraud; failure to deal in good faith; defamation; intentional infliction of emotional distress; breach of contract; violation of the Georgia Unfair Business Practices Act; interference with commerce; unjust enrichment by the theft of services and conversion of assets; failure to supervise, violation of NASD Rule 3010; assault; violation of NASD Rule 2310, failure to deal in good faith with customers; and, breach of fiduciary duties. The causes of action relate to Claimant's termination of employment by Respondents.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: Respondents' conduct was not negligent; Respondents complied with all applicable laws, regulations and standards; Claimant is an at-will employee and therefore has no cause of action against the employer based upon any contractual cause of action; and, Claimant was terminated upon his third defiant act in

violation of company policy. In addition, Respondents asserted the following causes of action in their counterclaims: defamation, disparagement, slander and slander per se; breach of contract; breach of contract-solicitation of customers; and, Claimant's Statement of Claim is both scandalous and frivolous.

Unless specifically admitted in his Answer to the Counterclaims, Claimant denied the allegations made in the Counterclaim and asserted various defenses including: Respondent Wachovia breached the contract with Claimant with the intent to harm Claimant; no order should be issued keeping Claimant from contacting his family, friends and customers; and, Claimant has every right and obligation to his clients and himself to pursue this action.

RELIEF REQUESTED

Claimant requested the following: Respondent Silva be permanently barred from the securities industry and at the very least removed from any position of management in the securities industry or in any supervisory role of the securities industry; Claimant's record be cleared of any reason other than voluntary on both sides of his termination of employment; based on the \$25-30 million in assets, the amount that these assets are growing, the life expectancy of Claimant, the actuarial tables, and upon economic expert witnesses, Claimant requests the amount of \$3.5 million be paid to him for all of his losses; and, all adequate attorneys' fees and costs of this litigation. Further, Claimant requested that the counterclaims of Respondents be totally denied, that any compensation for damages also be denied, and that costs of a lawsuit, attorneys' fees and any other additional relief permitted by law be granted to him in defending the counterclaims and the litigation.

Respondents requested dismissal of Claimant's Statement of Claim, judgment on its counterclaims against Claimant for compensatory and punitive damages in the amount of \$1,000,000.00, together with interest, costs of suit, attorneys' fees and any other additional relief permitted by law. Further, Respondent Wachovia requested an order enjoining Claimant from contacting, soliciting, or communicating with any of Respondent's customers whose accounts were previously managed by Claimant or whose names became known to Claimant while employed at Respondent Wachovia, the immediate return of all originals and copies of any account records, customer statements and/or customer files and all documents by whatever name known, and all acts as the Panel deemed appropriate for greater and further injunctive relief.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

At the evidentiary hearing, the arbitration panel permitted Respondents to amend their counterclaims to add a claim for intentional infliction of emotional distress.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the

post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

Claimant is liable on the counterclaims asserted and shall pay to Respondent Wachovia the sum of \$53,817.50 plus interest at the rate of 5% per annum which shall begin to accrue the thirty-first day after the date of service of the Award and continue thereafter until the date of payment of the Award.

Respondent Silva's counterclaims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimant's claim for violation of the Georgia Unfair Business Practices Act, Respondents' request for punitive damages and the parties' requests for attorneys' fees, are denied.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Silva's registration records maintained by the NASD Central Registration Depository ("CRD") based upon the defamatory nature of the information contained therein.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$600.00
Counterclaim filing fee	= \$1,250.00

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 is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournments were granted for which fees were assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary

injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

Two Pre-hearing sessions with a single arbitrator @ \$450.00	= \$900.00
Pre-hearing conferences: December 9, 2002	1 session
December 13, 2002	1 session
One Pre-hearing session with the Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: September 30, 2002	1 session
Four Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates: January 6, 2003	2 sessions
January 7, 2003	2 sessions
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Total Forum Fees	= \$6,900.00

The Panel has assessed the total forum fees of \$6,900.00 to Claimant.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$600.00
Forum Fees	= \$6,900.00
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Total Fees	= \$7,500.00
Less payments	= \$1,800.00
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Balance Due NASD	= \$5,700.00

Respondent Wachovia is solely liable for:

Member Fees = \$8,550.00

Total Fees = \$8,550.00

Less payments = \$8,550.00

Balance Due NASD = \$0.00

Respondents are jointly and severally liable for:

Filing Fee = \$1,250.00

Total Fees = \$1,250.00

Less payments = \$1,250.00

Balance Due NASD = \$0.00

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

ARBITRATION PANEL

Lisa V. Gianneschi, Esq. - Public Arbitrator, Presiding Chair

Joe E. Manuel, Esq. - Public Arbitrator

Peggy Lewis Kennedy - Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Lisa V. Gianneschi, Esq.

Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Joe E. Manuel, Esq.

Public Arbitrator

Signature Date

_____/S/_____
Peggy Lewis Kennedy

Non-Public Arbitrator

Signature Date

January 23, 2003
Date of Service (For NASD office use only)

Respondent Wachovia is solely liable for:

Member Fees = \$8,550.00

Total Fees = \$8,550.00

Less payments = \$8,550.00

Balance Due NASD = \$0.00

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Joe E. Manuel, Esq.	-	Public Arbitrator
Peggy Lewis Kennedy	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



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Public Arbitrator, Presiding Chair


Signature Date

Joe E. Manuel, Esq.
Public Arbitrator

Signature Date

Peggy Lewis Kennedy
Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

Joe E. Manuel, Esq. -

Public Arbitrator

Peggy Lewis Kennedy

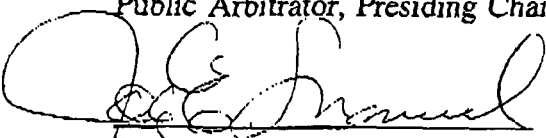
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lisa V. Gianneschi, Esq.

Public Arbitrator, Presiding Chair

Signature Date



Joe E. Manuel, Esq.

Public Arbitrator

01-21-03

Signature Date

Peggy Lewis Kennedy
Non-Public Arbitrator

Signature Date

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Joe E. Manuel, Esq. - Public Arbitrator

Peggy Lewis Kennedy - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lisa V. Gianneschi, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joe E. Manuel, Esq.
Public Arbitrator

Signature Date

Peggy Lewis Kennedy
Non-Public Arbitrator

1/14/2003
Signature Date

Date of Service (For NASD office use only)