

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Wachovia Securities, LLC

Case Number: 02-06849

Name of the Respondent
John E. Dudley

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimant Wachovia Securities, LLC, hereinafter referred to as "Claimant": Douglas D. Callaway, Esq., of Wachovia Securities Inc., located in Richmond, Virginia.

Respondent John E. Dudley, hereinafter referred to as "Respondent": Did not appear.

CASE INFORMATION

Statement of Claim filed: November 13, 2002.

Claimant signed the Uniform Submission Agreement: November 12, 2002.

Claimant's Pre-Hearing Brief filed on: July 14, 2003

Statement of Answer filed by Respondent: April 23, 2003.

Respondent signed the Uniform Submission Agreement: December 27, 2002 .

Respondent's Motion to Dismiss filed on: July 14, 2003.

Claimant's Response to the Motion to Dismiss filed: August 4, 2003.

CASE SUMMARY

Claimant asserted that Respondent failed to repay the outstanding principal balance on a Promissory Note executed during his employment at Wachovia. Pursuant to the terms of the Note, the balance became due upon termination of his employment. Demand for payment was made, but Respondent failed and refused to repay the loan.

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

1. Wachovia wrongfully, deceitfully and maliciously terminated his employment without cause;
2. Wachovia did not perform all of the terms and conditions required under the Promissory Note and Forgivable Loan; and,

3. Wachovia's management committed several illegal and unethical acts that led to the termination.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$50,537.29
Interest	At applicable Federal Rate until date of payment
Attorneys' Fees	Pursuant to the Note
Other Costs	Pursuant to the Note
Other Monetary/Non-Monetary Relief if any:	As the Panel deemed just and equitable

Respondent requested that any award against him be denied.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the Panel determined that Respondent John E. Dudley was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent(s) present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

On August 12, 2003, the Panel determined that the Respondent's Motion to Dismiss would not be considered until the hearing. At hearing on August 25, 2003, the Panel considered the Motion and it was denied.

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. Respondent John E. Dudley is liable for and shall pay to the Claimant, Wachovia Securities, LLC, the sum of \$50,537.29 as compensatory damages, plus interest in the amount of \$2,783.01, for a total sum of \$53,320.30;
2. In addition, Respondent John E. Dudley is liable for and shall pay to the Claimant, Wachovia Securities, LLC, the sum of \$2,000.00 as attorneys' fees. In deciding to award attorneys' fees, the panel considered the arguments of counsel, as well as the language of the promissory note executed by the Respondent, and determined that authority existed for an award of attorneys' fees to the Claimant;
3. Furthermore, Respondent John E. Dudley is liable for and shall pay to the Claimant, Wachovia Securities, LLC, the sum of \$2,600.00 as costs;
4. The parties shall bear their own costs of arbitration that are not specifically awarded; and,

5. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 1,000.00

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. Accordingly, Wachovia Securities, LLC is a party and the following Member Fees are assessed:

Member surcharge = \$ 1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

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:

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: June 13, 2003 1 session

One (1) Hearing sessions @ \$750.00 = \$ 750.00

Hearing Date: August 25, 2003 1 session

Total Forum Fees = \$1,500.00

The Panel has assessed \$1,500.00 of the forum fees to Respondent John E. Dudley.

SEE SUMMARY

Claimant Wachovia Securities, LLC Wachovia Securities, LLC Wachovia Securities, LLC is solely liable for:

Initial Filing Fee = \$ 1,000.00

Member Fees = \$ 3,550.00

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Total Fees	= \$ 4,550.00
<u>Less payments</u>	<u>= \$ 5,300.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 750.00

Respondent John E. Dudley is solely liable for:

Forum Fees	= \$ 1,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

ARBITRATION PANEL

Carol A. Freeland - Non-Public Arbitrator, Presiding Chairperson
Charles E. Martin, CPA - Non-Public Arbitrator
Chester E. Young - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Carol A. Freeland
Carol A. Freeland
Public Arbitrator, Presiding Chairperson

9.17.03
Signature Date

Charles E. Martin, CPA
Charles E. Martin, CPA
Public Arbitrator

Signature Date

Chester E. Young
Chester E. Young
Non-Public Arbitrator

Signature Date

10/2/03 llm
Date of Service (For NASD Dispute Resolution office use only)

Total Fees	= \$ 4,550.00
Less payments	= \$ 5,300.00
Balance Refunded by NASD Dispute Resolution	= \$ 750.00

Respondent John E. Dudley is solely liable for:

Forum Fees	= \$ 1,500.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

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Charles E. Martin, CPA - Non-Public Arbitrator
Chester E. Young - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Carol A. Freeland
Public Arbitrator, Presiding Chairperson

Signature Date

Charles E. Martin
Charles E. Martin, CPA
Public Arbitrator

9-18-03
Signature Date

Chester E. Young
Non-Public Arbitrator

Signature Date

10/2/03 Man
Date of Service (For NASD Dispute Resolution office use only)

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Total Fees	= \$ 4,550.00
Less payments	= \$ 3,800.00
Balance Refunded by NASD Dispute Resolution	= \$ 750.00

Respondent John E. Dudley is solely liable for:

Forum Fees	= \$ 1,500.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

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Carol A. Freeland - Non-Public Arbitrator, Presiding Chairperson
Charles E. Martin, CPA - Non-Public Arbitrator
Chester E. Young - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Carol A. Freeland
Public Arbitrator, Presiding Chairperson

Signature Date

Charles E. Martin, CPA
Public Arbitrator

Signature Date



Chester E. Young
Non-Public Arbitrator

9-27-03
Signature Date

10/2/03 

Date of Service (For NASD Dispute Resolution office use only)