

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Wachovia Securities, Inc. v. Daniel Shainheit

Case Number: 03-00596

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Wachovia Securities, Inc., hereinafter referred to as "Claimant": Jonathan E. Levine, Esq., Law Offices of Daniel S. Fiore, Arlington, VA.

Respondent, Daniel Shainheit, hereinafter referred to as "Respondent", *pro se*.

**CASE INFORMATION**

Statement of Claim filed on or about: January 24, 2003  
Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: April 16, 2003.  
Respondent did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of promissory note dated April 7, 2000 and amended August 21, 2002; and commission advances owed.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Under Count I, Claimant requested \$19,800.00 representing the unpaid principal balance of the Note, as amended, plus interest on the Note at the per annum rate of 7.5% that has accrued since September 1, 2002 until paid in full, its attorney's fees and arbitration costs expended in this matter, and such other relief to which Claimant is entitled. Under Count II, Claimant requested \$6,565.13 representing the trust chargeback, plus interest at the applicable judgment rate from September 19, 2002, its attorney's fees and arbitration costs expended in this matter pursuant to Rule 10215 of the NASD Code of Arbitration, and such other relief to which Claimant is entitled.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim is bound by the determination of the Arbitrator on all issues submitted.

On April 16, 2003 Claimant filed a Motion to Preclude Respondent's Answer. The Arbitrator denied Claimant's Motion to Preclude Respondent's Answer.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Arbitrator determined that Respondent Daniel Shainheit has been 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 present, in accordance with NASD Code of Arbitration Procedure.

On September 18, 2003 Respondent verbally indicated that he could not appear at the hearing. He was informed that the Claimant and Arbitrator were in attendance and that he needed to appear. The hearing was in progress when Respondent faxed a medical note, which was transmitted to the Arbitrator.

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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable and shall pay to the Claimant compensatory damages in the amount of \$26,365.13.
2. Respondent is liable and shall pay to the Claimant interest at the rate of 7.5% per annum from September 1, 2002 through the date of payment of the award.
3. Respondent is liable and shall pay to the Claimant attorneys' fees in the amount of \$5,000.00 in accordance with the terms of the promissory note.
4. 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, Inc. is a party.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: June 27, 2003 1 session	
One (1) Hearing session @ \$450.00	= \$450.00
Hearing Date: September 18, 2003 1 session	
Total Forum Fees	= \$900.00

1. The Arbitrator assessed the \$900.00 forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Claim Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	= \$ 2,350.00
Total Fees	= \$ 3,350.00
<u>Less payments</u>	= \$ 3,800.00
Refund Due to Claimant	= \$ 450.00
2. Respondent is solely liable for:

Forum Fees	= \$ 900.00
Total Fees	= \$ 900.00
<u>Less payments</u>	= \$ .00
Balance Due NASD Dispute Resolution	= \$ 900.00

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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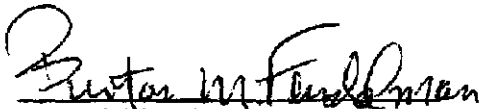
**ARBITRATION PANEL**

Burton M. Fendelman, Esq.

- Non-Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

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 in which is my award.



Burton M. Fendelman, Esq.  
Non-Public Arbitrator, Presiding Chairperson

October 13, 2003  
Signature Date

October 14, 2003

Date of Service (For NASD Dispute Resolution use only)