

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Liam P. Healy

and

03-04630  
Chicago, Illinois

Name of Respondent

J. P. Morgan Securities, Inc.

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Liam P. Healy ("**Claimant**") was represented by Edward M. Hogan, Esq., Kelly McCloskey Cherf, Esq., and J. Michael Tecson, Esq., Hogan Marren, Ltd., Chicago, Illinois. Roseanne Loftus, Esq. also participated as co-counsel for Claimant over the objection of Respondent.

J. P. Morgan Securities, Inc. ("**Respondent**") was represented by David J. Roland, Esq. and Beth T. Golub, Esq., Seyfarth Shaw, LLP, Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 25, 2003. Submission Agreement of Claimant Liam P. Healy was signed on June 20, 2003.

Statement of Answer was filed by Respondent J. P. Morgan Securities, Inc. on or about October 6, 2003. Submission Agreement of Respondent J. P. Morgan Securities, Inc. was signed on October 3, 2003 by Beth T. Golub..

**CASE SUMMARY**

Claimant alleged as follows:

Healy brings this action for breach of contract, unjust enrichment, quantum meruit, promissory estoppel, violation of the Illinois Wage Payment Act, and to recover money owed to healy by JP Morgan. Healy was an employee of JP Morgan from April 1, 2001 until he was terminated, without cause, on December 15, 2002. Upon his termination JP Morgan

failed to pay Healy compensation for his services, including his annual bonus and severance pay.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated:

Healy, who formerly was employed by JP Morgan and whose position as eliminated in a reduction-in-force, implemented on October 15, 2002, alleges that he is entitled to a bonus and severance payments in excess of \$1,075,000.00. Healy asserts that he is entitled to recovery based upon legal theories of breach of contract and various alternative contract theories (e.g. quantum meruit, promissory estoppel), as well as a claim under the Illinois Wage Payment Act, 820 ILCS 115/1 *et seq.* In support of his claims, Healy puts forth repeated allegations of excellent job performance during his approximately one and one-half years of employment. JP Morgan admits that Healy's job performance was not a concern, but nevertheless denies each and every one of Healy's claims. Indeed many of Healy's allegations are largely irrelevant because he was not terminated due to performance, but rather, as part of an overall cost-saving reduction-in-force.

Neither the terms of Healy's employment, nor his performance, entitled him to a guarantee of employment for any period of time, a bonus in any amount, or severance payments upon his termination. Rather, Healy was at all times an at-will employee whose employment was subject to JP Morgan's benefit plans and policies. He was specifically advised of such in his offer of employment letter (attached to his Amended Statement of Claim as Exhibit B). In the same letter, he was also advised that he would be eligible to receive an incentive bonus, based in part on individual performance, but also based on the corporation's and his business unit's results. (See Claim Ex. B). Finally, and most importantly, he was advised that any bonus was to be awarded at JP Morgan's "sole discretion" and that his employment at the time of the bonus payout was required. (*Id.*)

The express language in both his offer letter and JP Morgan's incentive plan defeat Healy's contract claim. His remaining claims – based on contract claim alternatives – are equally without merit because such quasi-contractual claims cannot be sustained when a specific document governs the disputed relationship.

#### **RELIEF REQUESTED**

Claimant requested an award in his favor and against JP Morgan granting the following relief:

- a) An award in excess of \$1,050,000 plus interest at the highest rate permitted by law;
- b) An award of \$25,000 for unpaid severance benefits;
- c) Costs and reasonable attorneys fees in pursuing this action; and
- d) Such further relief as is just and proper.

Respondent requested that Healy be denied any relief whatsoever and that his Amended Statement of Claim be dismissed in its entirety with prejudice.

### **OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent J. P. Morgan Securities, Inc. shall be and hereby is liable for and shall pay to Claimant Liam P. Healy the sum of \$150,000.00 (**One Hundred Fifty Thousand Dollars and No Cents**) as compensatory damages.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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 = \$500.00

### **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(s) is J. P. Morgan Securities, Inc.

Member surcharge	\$	2,800.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	5,000.00
Total Member Fees	\$	8,550.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

Hearing Date(s), February 24 & 25, 2005 adjournment requested by party J. P. Morgan Securities, Inc. = \$1,200.00

### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

2	Pre-hearing session(s) with a single arbitrator	x	\$450.00	\$	900.00
	December 9, 2004	1	session		
	February 7, 2005	1	session		
2	Pre-hearing session(s) with Panel	x	1,200.00	\$	2,400.00
	November 3, 2004	1	session		
	February 15, 2005	1	session		
5	Hearing sessions	x	1,200.00	\$	6,000.00
	March 21, 2005	3	sessions		
	March 22, 2005	2	sessions		
	Total Forum Fees			\$	9,300.00

The Arbitration Panel has assessed \$4,650.00 of the forum fees to Liam P. Healy.

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### **Fee Summary**

Claimant, Liam P. Healy, shall be and hereby is liable for:

Initial Filing Fee	= \$	500.00
<u>Forum Fees</u>	= \$	4,650.00
Total Fees	= \$	5,150.00
<u>Less payments</u>	= \$	-1,700.00
Balance Due NASD Dispute Resolution	= \$	3,450.00

Respondent, J. P. Morgan Securities, Inc., shall be and hereby is liable for:

Member Fees	= \$	8,550.00
Adjournment Fee	= \$	1,200.00
<u>Forum Fees</u>	= \$	4,650.00
Total Fees	= \$	14,400.00
<u>Less payments</u>	= \$	-14,750.00
Balance to be refunded by NASD Dispute Resolution	= \$	- 350.00

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Stuart D. Summers - Public Arbitrator, Presiding Chair  
David L. Buffen - Public Arbitrator  
Gerald A. Grossman - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Stuart D. Summers  
Stuart D. Summers  
Public Arbitrator, Presiding Chair

May 9, 2005  
Signature Date

/s/ David L. Buffen  
David L. Buffen  
Public Arbitrator

May 11, 2005  
Signature Date

/s/ Gerald A. Grossman  
Gerald A. Grossman  
Non-Public Arbitrator

May 9, 2005  
Signature Date

5/13/05  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 03-04630  
Award Page 5 of 5

NASD Dispute Resolution, Inc.

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MAY 10 2005

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<u>Less payments</u>	<u>= \$</u>	<u>-14,750.00</u>
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**David L. Buffen - Public Arbitrator**  
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### Concurring Arbitrators:

Stuart D. Summers  
Stuart D. Summers  
Public Arbitrator, Presiding Chair

5-9-2005  
Signature Date

**David L. Buffen**  
Public Arbitrator

**Signature Date**

**Gerald A. Grossman**  
Non-Public Arbitrator

**Signature Date**

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Concurring Arbitrators:

Stuart D. Summers  
Public Arbitrator, Presiding Chair

  
David L. Buffen  
Public Arbitrator

Signature Date

5/11/05  
Signature Date

Gerald A. Grossman  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

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