

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Wachovia Securities, L.L.C.

Case Number: 04-00151

Name of the Respondent
Mark Mismas

Hearing Site: Tampa, Florida

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

For Wachovia Securities, L.L.C., hereinafter referred to as "Claimant": Jonathan Levine, Esq., Law Office of Daniel S. Fiore, Arlington, Virginia.

Mark Mismas, hereinafter referred to as "Respondent", appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: January 8, 2004.

Claimant signed the Uniform Submission Agreement: December 9, 2003.

Statement of Answer filed by Respondent on or about: March 2, 2004.

Respondent signed the Uniform Submission Agreement: March 2, 2004.

CASE SUMMARY

Claimant asserted the cause of action of breach of promissory note. Claimant further asserted the cause of action relates to the amounts due and owing to Claimant pursuant to a loan given to Respondent, a former employee, which loan is evidenced by a written Promissory Note (the "Note") signed by Respondent.

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

RELIEF REQUESTED

Claimant requested that it be granted an award against Respondent in the principal amount of \$56,250.00, interest that had accrued as of July 15, 2003 in the amount of \$6,731.32, plus interest on the Note at the per annum rate of 6.75% that has accrued since April 15, 2003 until paid in full, its attorneys' fees and arbitration costs expended in this matter, and such other relief to which Claimant is entitled.

Respondent requested that the Statement of Claim be dismissed with prejudice and that Respondent be awarded attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent 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 the NASD Code of Arbitration Procedure (the "Code").

The party present at the hearing agreed that the Award in this matter may be executed in counterpart copies.

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:

Respondent is liable and shall pay to Claimant the sum of \$56,250.00 plus interest at the rate of 6% per annum from December 20, 2001 until August 20, 2004 in the sum of \$9,733.68.

Respondent is liable pursuant to the Note and shall pay to Claimant attorneys' fees in the sum of \$5,000.00.

Respondent is liable and shall pay to Claimant the sum of \$1,000.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein are 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
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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	= \$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:

No adjournment fees were incurred 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:

One (1) Pre-hearing session with the Panel @ \$750.00	= \$750.00
Pre-hearing conference: May 17, 2004 1 session	
One (1) Hearing session @ \$750.00	= \$750.00
Hearing Date: August 17, 2004 1 session	
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Total Forum Fees	= \$1,500.00

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

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	= \$1,000.00
Member Fees	= \$3,550.00
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Total Fees	= \$4,550.00
Less payments	= \$4,550.00

Balance Due NASD Dispute Resolution	= \$0.00
Respondent is solely liable for:	
Forum Fees	= \$1,500.00
Total 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.

ARBITRATION PANEL

Paul L. Matecki, Esq.	-	Non-Public Arbitrator, Presiding Chair
Norman L. Reiter	-	Non-Public Arbitrator
Darryll R. Bauchert, MBA, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Paul L. Matecki, Esq.
Non-Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Norman L. Reiter
Non-Public Arbitrator

Signature Date

_____/S/_____
Darryll R. Bauchert, MBA, CFP
Non-Public Arbitrator

Signature Date

August 24, 2004

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

NASD Dispute Resolution

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Balance Due NASD Dispute Resolution

= \$0.00

Respondent is solely liable for:

Forum Fees

= \$1,500.00

Total Fees

= \$1,500.00

Less payments

= \$0.00

Balance Due NASD Dispute Resolution

= \$1,500.00

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ARBITRATION PANEL

Paul L. Matecki, Esq.

Non-Public Arbitrator, Presiding Chair

Norman L. Reiter

Non-Public Arbitrator

Darryll R. Bauchert, MBA, CFP

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Paul L. Matecki, Esq.

Non-Public Arbitrator, Presiding Chair

8/24/04
Signature Date

Norman L. Reiter

Non-Public Arbitrator

Signature Date

Darryll R. Bauchert, MBA, CFP

Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 04-00151
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Balance Due NASD Dispute Resolution	= \$0.00
Respondent is solely liable for: Forum Fees	= \$1,500.00
Total Fees	= \$1,500.00
Less payments	= \$0.00
Balance Due NASD Dispute Resolution	= \$1,500.00

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ARBITRATION PANEL

Paul L. Matecki, Esq.	-	Non-Public Arbitrator, Presiding Chair
Norman L. Reiter	-	Non-Public Arbitrator
Darryll R. Bauchert, MBA, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Paul L. Matecki, Esq.
Non-Public Arbitrator, Presiding Chair

Signature Date


Norman L. Reiter
Non-Public Arbitrator

08-20-2004
Signature Date

Darryll R. Bauchert, MBA, CFP
Non-Public Arbitrator

Signature Date

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

AUG-20-2004 11:20 AM

AUG 20, 2004 8:50AM

NASD DISPUTE RESOLUTION

NO. 320 P. 5/5

NASD Dispute Resolution

Arbitration No. 04-00151

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Balance Due NASD Dispute Resolution	= \$0.00
Respondent is solely liable for:	
Forum Fees	= \$1,500.00
Total 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.

ARBITRATION PANEL

Paul L. Matecki, Esq.

Norman L. Reiter

Darryll R. Bauchert, MBA, CFP

Non-Public Arbitrator, Presiding Chair

Non-Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Paul L. Matecki, Esq.

Non-Public Arbitrator, Presiding Chair

Signature Date

Norman L. Reiter

Non-Public Arbitrator

Signature Date

Darryll R. Bauchert, MBA, CFP

Non-Public Arbitrator

Signature Date

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