

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Wachovia Securities, LLC, Claimant v. James R. Phillips, Respondent

Case Number: 04-03279

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Timothy N. Will, Esq.
Albert & Will, LLP
Torrence, California

For Respondent:

James R. Phillips
In Propria Persona
Sherman Oaks, California

CASE INFORMATION

Statement of Claim filed: May 4, 2004

Claimant's Uniform Submission Agreement signed: May 3, 3004

Statement of Answer filed by Respondent: July 2, 2004

Respondent's Uniform Submission Agreement signed: June 28, 2004

CASE SUMMARY

Claimant alleged default on a promissory note.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$78,588.75 in principal due under the terms of the promissory note, interest at the applicable federal rate from the date of default until payment of the note in full, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On May 10, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent James R. Phillips is liable to and shall pay Wachovia Securities, LLC the sum of \$78,588.75 in compensatory damages.
- 2) Respondent James R. Phillips is liable to and shall pay Wachovia Securities, LLC interest in the amount of \$8,939.74.
- 3) Respondent James R. Phillips is liable to and shall reimburse Wachovia Securities, LLC \$1,100.00 in filing fees and miscellaneous costs.
- 4) Respondent James R. Phillips is liable to and shall reimburse Wachovia Securities, LLC \$1,320.00 in attorney's fees, pursuant to contract between the parties.
- 5) Except as set forth in paragraphs 3 and 4, the parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wachovia Securities, LLC is a party and the following fees are assessed:

Member Surcharge	= \$1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: September 10, 2004 1 session	
One (1) Hearing sessions @ \$750.00/session	= \$ 750.00
<u>Hearing: May 2, 2005 1 session</u>	<u></u>
Total Forum Fees	= \$1,500.00

The Panel assessed the entire balance of the forum fees, in the amount of \$1,500.00, to Respondent James R. Phillips.

Fee Summary

1. Claimant Wachovia Securities, LLC is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
Total Fees	= \$ 4,550.00
Less payments	= \$(5,300.00)
Refund Due from NASD Dispute Resolution	= \$ (750.00)

2. Respondent James R. Phillips is charged with the following fees and costs:

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

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

ARBITRATION PANEL

Martin Rosenfeld
Michael G. Clark
Craig A. Gordon

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Martin Rosenfeld
Chair, Public Arbitrator

Signature Date

Michael G. Clark
Public Arbitrator

Signature Date



Craig A. Gordon
Non-Public Arbitrator

5-3-05

Signature Date

May 4, 2005

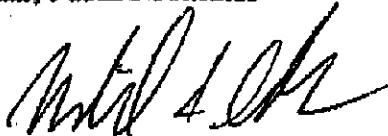
Date of Service

ARBITRATION PANEL

<i>Martin Rosenfeld</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Michael G. Clark</i>	-	<i>Public Arbitrator</i>
<i>Craig A. Gordon</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Martin Rosenfeld
Chair, Public Arbitrator



Michael G. Clark
Public Arbitrator

Signature Date

5/4/05

Signature Date

Craig A. Gordon
Non-Public Arbitrator

Signature Date

May 4, 2005
Date of Service


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Non-Public Arbitrator

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Public Arbitrator

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Non-Public Arbitrator

Signature Date

May 4, 2005
Date of Service