

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

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In the Matter of the Arbitration Between

Name of Claimant

James M. Barnes

and

04-06828  
Chicago, Illinois

Name of Respondent

Wachovia Securities, LLC

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

James M. Barnes ("**Claimant**") was represented by Thomas M. Knepper, Esq., Chicago, Illinois.

Wachovia Securities, LLC ("**Respondent**") was represented by Sandra D. Grannum, Esq., Davidson & Grannum, LLP, Orangeburg, New York, New York.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 28, 2004. Submission Agreement of Claimant James M. Barnes was signed on September 16, 2004.

Statement of Answer was filed by Respondent Wachovia Securities, LLC on or about December 10, 2004. Submission Agreement of Respondent Wachovia Securities, LLC was signed on December 3, 2004 by Carlos Ricca.

**CASE SUMMARY**

Claimant asserted claims for wrongful termination, denial of severance benefits and other consequential, foreseeable damages that he sustained as a result of the wrongful conduct of his former employer.

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

Claimant alleges wrongful termination, denial of severance benefits and other consequential and foreseeable damages. ... Claimant was terminated for knowingly violating Firm policy

and acting contrary to management instruction. Given Claimant's actions, it would appear that not only did he intend to act as he did, he intended to keep his actions secret from the Firm's Compliance Department and senior management.

### **RELIEF REQUESTED**

Claimant requested an award in the approximate amount of \$332,244.00, interest, costs and attorneys' fees. At the hearing, Claimant requested damages in the amount of \$1,000,000.00.

Respondent requested that the claims be dismissed in their entirety with prejudice; that their costs and fees for defending against these claims be assessed against Claimant; and any other relief deemed appropriate by the arbitration panel.

### **OTHER ISSUES CONSIDERED & DECIDED**

At the hearing, the Arbitration Panel considered and granted the request to increase requested damages in the amount of \$1,000,000.00.

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Wachovia Securities LLC is liable for and will pay to James M. Barnes the sum of \$783,729.00 (**Seven Hundred Eighty Three Thousand Seven Hundred Twenty Nine Dollars and No Cents**). In making this determination, the Arbitration Panel finds that the reason identified on Mr. Barnes' Form U-5 is inappropriate and does not correctly reflect the actual reason for termination.
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 = \$375.00

**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 Wachovia Securities, LLC.

|                         |    |                 |
|-------------------------|----|-----------------|
| Member surcharge        | \$ | 2,250.00        |
| Pre-hearing process fee | \$ | 750.00          |
| Hearing process fee     | \$ | 4,000.00        |
| Total Member Fees       | \$ | <u>7,000.00</u> |

**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:

|   |                                   |   |          |    |                 |
|---|-----------------------------------|---|----------|----|-----------------|
| 1 | Pre-hearing session(s) with Panel | x | 1,200.00 | \$ | 1,200.00        |
|   | March 9, 2005                     | 1 | session  |    |                 |
| 5 | Hearing sessions                  | x | 1,200.00 | \$ | 6,000.00        |
|   | November 2, 2005                  | 2 | sessions |    |                 |
|   | November 3, 2005                  | 2 | sessions |    |                 |
|   | November 4, 2005                  | 1 | session  |    |                 |
|   | Total Forum Fees                  |   |          | \$ | <u>7,200.00</u> |

The Arbitration Panel has assessed \$3,600.00 of the forum fees to James M. Barnes.  
The Arbitration Panel has assessed \$3,600.00 of the forum fees to Wachovia Securities, LLC.

**Fee Summary**

Claimant, James M. Barnes, is liable for:

|                                     |      |           |
|-------------------------------------|------|-----------|
| Initial Filing Fee                  | = \$ | 375.00    |
| <u>Forum Fees</u>                   | = \$ | 3,600.00  |
| Total Fees                          | = \$ | 3,975.00  |
| <u>Less payments</u>                | = \$ | -1,425.00 |
| Balance Due NASD Dispute Resolution | = \$ | 2,550.00  |

Respondent, Wachovia Securities, LLC, is liable for:

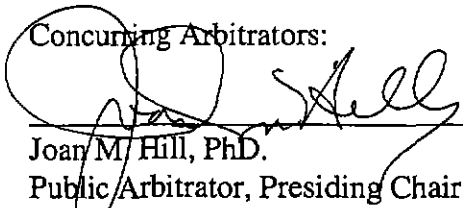
|                                     |      |           |
|-------------------------------------|------|-----------|
| Member Fees                         | = \$ | 7,000.00  |
| <u>Forum Fees</u>                   | = \$ | 3,600.00  |
| Total Fees                          | = \$ | 10,600.00 |
| <u>Less payments</u>                | = \$ | -5,200.00 |
| Balance Due NASD Dispute Resolution | = \$ | 5,400.00  |

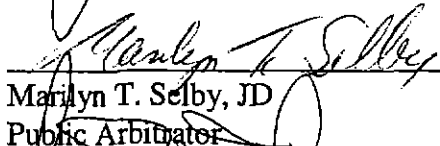
**All balances are due to NASD Dispute Resolution**

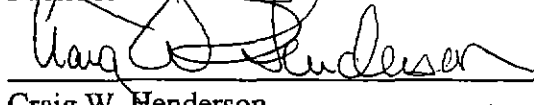
**ARBITRATION PANEL**

Joan M. Hill, PhD. - Public Arbitrator, Presiding Chair  
Marilyn T. Selby, JD - Public Arbitrator  
Craig W. Henderson - Non-Public Arbitrator

Concurring Arbitrators:

  
Joan M. Hill, PhD.  
Public Arbitrator, Presiding Chair

  
Marilyn T. Selby, JD  
Public Arbitrator

  
Craig W. Henderson  
Non-Public Arbitrator

4 Nov. 2005  
Signature Date

11-4-05  
Signature Date

11/4/05  
Signature Date

11/04/05  
Date of Service (For NASD office use only)