

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

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In the Matter of the Arbitration Between:

Brian Corbett (Claimant) vs. Wachovia Securities, LLC f/k/a Prudential Securities (Respondent)

Case Number:05-01103

Hearing Site: New York, New York.

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Brian Corbett hereinafter referred to as "Claimant": Harry J. Delagrammatikas, Esq., and Liam O'Brien, Esq., Liam O'Brien & Associates P.C. New York, NY.

Respondent Wachovia Securities, LLC f/k/a Prudential Securities hereinafter referred to as "Respondent": Stephen G. Topetzes, Esq., Kirkpatrick & Lockhart Nicholson Graham LLP, Washington, D.C. Previously represented by David Bennet Ross, Esq., and Rosemary Joyce, Esq., Seyfarth Shaw LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 28, 2005.

Amended Statement of Claim filed by Claimant: May 20, 2005.

Claimant signed the Uniform Submission Agreement: February 25, 2005.

Motion to Dismiss and Statement of Answer filed by Respondent on or about: May 2, 2005.

Answer to Amended Statement of Claim filed by Respondent: June 7, 2005.

Respondent did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

In his Statement of Claim, Claimant asserted the following causes of action: defamation.

In his Amended Statement of Claim, Claimant asserted the following causes of action: defamation and breach of fiduciary duty.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$100,000.00; amendment of the Form U-5 to accurately reflect his separation from Prudential, attorneys' fees, costs, and other and further relief as is just and proper.

Respondent requested dismissal of Claimant's claims with prejudice, costs, and attorneys' fees.

### **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, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about November 22, 2005, the Panel granted Respondent's Motion to Dismiss Claimant's Statement of Claim without prejudice to re-file.

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, the testimony and evidence, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed without prejudice.
2. 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	= \$ 225.00
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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. Accordingly, Wachovia Securities, LLC is a party.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$ 1,700.00
Total Member fees	= \$ 3,550.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$750.00 per session	= \$	1,500.00
Pre-hearing conferences: September 13, 2005	1 session	
November 15, 2005	1 session	
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Total Forum Fees	= \$	1,500.00

1. The Panel has assessed \$750.00 of the forum fees to Claimant.
2. The Panel has assessed \$750.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$	225.00
Forum Fees	= \$	750.00
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Total Fees	= \$	975.00
Less payments	= \$	975.00
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Balance Due NASD Dispute Resolution	= \$	0.00

2. Respondent is solely liable for:

Member Fees	= \$	3,550.00
Forum Fees	= \$	750.00
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Total Fees	= \$	4,300.00
Less payments	= \$	3,550.00
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Balance Due NASD Dispute Resolution	= \$	750.00


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

**ARBITRATION PANEL**

Gary G. Staab, Esq.	- Public Arbitrator, Presiding Chairperson
Angela Lourdes Ortiz	- Public Arbitrator
Karen M. Cullen, Esq.	- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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, which is my award.

  
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Gary G. Staab, Esq.  
Public Arbitrator, Presiding Chairperson

1-9-06  
Signature Date

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Angela Lourdes Ortiz  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Karen M. Cullen, Esq.  
Non-Public Arbitrator

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Signature Date

JANUARY 11, 2006  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

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Angela Lourdes Ortiz	- Public Arbitrator
Karen M. Cullen, Esq.	- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

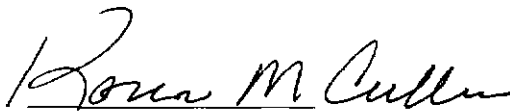
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1-13-06  
Signature Date

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Signature Date

  
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Angela Lourdes Ortiz  
Public Arbitrator

1/10/06  
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