

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of Claimant/Counter-Respondent
Wachovia Securities, LLC

vs.

Case Number: 05-02220
Hearing Site: Indianapolis, Indiana

Name of Respondent/Counter-Claimant
Jon K. Stucker

NATURE OF THE DISPUTE

Member vs. Associated Person

REPRESENTATION OF PARTIES

Wachovia Securities, LLC ("Wachovia") was represented by Douglas D. Callaway, Esq., Wachovia Securities, LLC, Richmond, Virginia. On or about August 15, 2005, Diane C. Fischer, Esq., Ronald P. Kane, Esq., and Jennifer L. Klebes, Esq., Kane & Fischer, Ltd., Chicago, Illinois, filed their Notice of Appearance on behalf of Wachovia.

Jon K. Stucker ("Stucker") was represented by Bryce H. Bennett, Jr., Esq. and Jeff Roberts, Esq., of Riley, Bennett & Egloff, LLP, in Indianapolis, Indiana.

CASE INFORMATION

The Statement of Claim was filed on or about April 27, 2004. The Submission Agreement of Wachovia was signed on or about April 1, 2005. Wachovia's Motion to Amend Statement of Claim and First Amended Statement of Claim was filed on September 13, 2005.

The Statement of Answer and Counterclaim was filed by Stucker on or about July 7, 2005. The Submission Agreement of Stucker was signed on or about June 18, 2005.

Wachovia's Reply to Stucker's Answer and Counterclaim was filed on August 22, 2005.

Wachovia's Motion for Leave to Amend Reply to Stucker's Answer and Counterclaim and Amended Reply to Stucker's Answer and Counterclaim was filed on April 11, 2006. Stucker's Response to Wachovia's Motion for Leave to Amend Reply to Stucker's Answer and Counterclaim was filed on April 21, 2006.

Wachovia's Amended Reply to Stucker's Answer and Counterclaim was filed on April 28, 2006.

CASE SUMMARY

Wachovia asserted the following causes of action: failure to repay promissory notes. The causes of action relate to Stucker's breach of promissory notes dated December 1, 2002 and November 10, 2003.

Unless specifically admitted in his Answer, Stucker denied the allegations made in the Statement of Claim and asserted affirmative defenses, including the following:

1. Claimant's claims are unenforceable due to duress;
2. Claimant's claims are based on unenforceable contracts of adhesion;
3. Claimant is estopped to assert its claim against Respondent because of Claimant's actions and misconduct;
4. Claimant is not entitled to relief upon its claims against Respondent because of Claimant's unclean hands;
5. Claimant has been unjustly enriched and therefore its claims must fail;
6. Claimant's claims fail because there is no mutuality of obligation;
7. Claimant's claims fail for lack and/or failure of consideration;
8. Claimant's claims have been satisfied by payment;
9. Claimant's claims must be reduced and set off by Counterclaimant's claims against Wachovia Securities, LLC;
10. Claimant has received a sum of money which completely compensates it for its loss and terminates its claim by accord and satisfaction; and
11. Respondent reserves the right to add any additional defenses which may become available as Claimant's legal theories or additional facts are revealed by discovery.

Stucker asserted the following causes of action in his Counterclaim: wrongful termination, breach of contract, defamation, deceit and misrepresentation, conversion, fraud, intentional interference with business relationships, infliction of emotional distress, and unpaid wages and compensation. The causes of action relate to Wachovia's breach of promises and misrepresentations made to Stucker as a result of its merger with Prudential Securities. This included an unanticipated move to Prudential offices, which Stucker believed to be inferior and a hostile environment created by Prudential management; discriminatory treatment of Stucker, his work group and his clients; and false assurances regarding Stucker's employment with Wachovia.

RELIEF REQUESTED

Wachovia requested an award in the amount of:

Actual/Compensatory Damages

\$497,497.13

Interest	\$18,129.78, plus
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Stucker requested that the claims asserted against him be denied in their entirety.

In the Counterclaim, Stucker requested an award in the amount of:

Actual/Compensatory Damages	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

OTHER ISSUES CONSIDERED & DECIDED

On or about September 13, 2005, the parties reached an agreement relating to Wachovia's Motion to Amend Statement of Claim, which included a stipulation that Stucker would have no objection to Wachovia's Motion to Amend its Statement of Claim, and that Wachovia's Amended Statement of Claim would be deemed filed as of the date of the stipulation.

In an Order dated April 26, 2006, the Panel granted Wachovia's Motion for Leave to file Amended Reply to Stucker's Answer and Counterclaim.

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.

AWARD

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

- 1.) Respondent/Counter-Claimant, Jon K. Stucker, is solely liable for and shall pay to Claimant/Counter-Respondent, Wachovia Securities, LLC, the sum of \$571,387.03 in compensatory damages;
- 2.) Respondent/Counter-Claimant, Jon K. Stucker, is solely liable for and shall pay to Claimant/Counter-Respondent, Wachovia Securities, LLC, interest on the above-stated sum at the rate of 8% per annum to accrue from the date the Award is served until the date the Award is paid in full;
- 3.) Respondent/Counter-Claimant, Jon K. Stucker, is solely liable for and shall pay to Claimant/Counter-Respondent, Wachovia Securities, LLC, the sum of \$99,719.50 in attorneys' fees pursuant to the parties' contract/promissory notes of December 2002 and November 2003;

- 4.) The Counterclaim of Respondent/Counter-Claimant, Jon K. Stucker, is denied and dismissed with prejudice;
- 5.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 6.) Any relief not specifically enumerated is hereby denied with prejudice.

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
Counter Claim filing fee	= \$ 250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Wachovia Securities, LLC.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing 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, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motion on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
Stucker submitted one (1) discovery-related motion	

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: September 14, 2005	1 session
September 6, 2006	1 session

Fourteen (14) Hearing sessions x \$1,125.00 = \$15,750.00

Hearing Dates:	May 2, 2006	2 sessions
	May 3, 2006	2 sessions
	May 4, 2006	2 sessions
	May 5, 2006	1 session
	May 30, 2006	2 sessions
	May 31, 2006	2 sessions
	June 2, 2006	3 sessions

Total Forum Fees = \$18,200.00

The Panel has assessed \$18,200.00 of the forum fees solely to Jon K. Stucker.

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.

Wachovia Securities, LLC requested audio transcripts = \$ 150.00

FEE SUMMARY

Claimant/Counter-Respondent, Wachovia Securities, LLC, is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Administrative Costs	= \$ 150.00
<u>Total Fees</u>	<u>= \$ 6,350.00</u>
<u>Less payments</u>	<u>= \$ 7,595.00</u>
Refund Due from NASD Dispute Resolution	= \$ 1,245.00

Respondent/Counter-Claimant, Jon K. Stucker, is liable for:

Counterclaim Filing Fee	= \$ 250.00
Forum Fees	= \$18,200.00
<u>Total Fees</u>	<u>= \$18,450.00</u>
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$16,875.00

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

ARBITRATION PANEL

Fred J. Naffziger, Esq. - Public Arbitrator, Presiding Chair
Jeffrey W. Waggoner - Public Arbitrator
Thomas J. McAllister - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Fred J. Naffziger
Fred J. Naffziger
Public Arbitrator, Presiding Chair

9/21/06
Signature Date

/s/ Jeffrey W. Waggoner
Jeffrey W. Waggoner
Public/Non-Public Arbitrator

9/21/06
Signature Date

/s/ Thomas J. McAllister
Thomas J. McAllister
Non-Public Arbitrator

10/31/06
Signature Date

9/21/06
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 05-02220
Award Page 6 of 6

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Jeffrey W. Waggoner	-	Public Arbitrator
Thomas J. McAllister	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Fred J. Naffziger
Fred J. Naffziger, Esq.
Public Arbitrator, Presiding Chair

Sept 21, 2006
Signature Date

Jeffrey W. Waggoner
Public Arbitrator

Signature Date

Thomas J. McAllister
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Signature Date



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Public Arbitrator

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NASD Dispute Resolution
Arbitration No. 05-02220
Award Page 6 of 6

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