

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant/Counter-Respondent
Wachovia Securities, LLC

Case Number: 05-02221

Name of the Respondent/Counter-Claimant
Daniel Edward Levin

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Member Firm vs. Associated Person

REPRESENTATION OF PARTIES

Claimant/Counter-Respondent Wachovia Securities, LLC, hereinafter referred to as "Wachovia": Ronald Kane, Esq., of the firm of Kane & Fischer, Ltd., located in Chicago, Illinois.

Respondent/Counter-Claimant Daniel Edward Levin, hereinafter referred to as "Levin": Andrew R. Brosnick, Esq., of the firm of Serruto & Associates, P.C., located in West Orange, New Jersey.

CASE INFORMATION

Statement of Claim filed: April 27, 2005.

Wachovia signed the Uniform Submission Agreement: April 1, 2005.

Wachovia's Reply to Counterclaim filed on: August 12, 2005.

Wachovia's Motion to Liquidate Levin's Account filed on: June 29, 2005.

Wachovia's Motion for Leave to Amend Statement of Claim filed on: September 21, 2005.

Wachovia's Amended Statement of Claim filed on: November 29, 2005.

Statement of Answer and Counter-Claim filed by Levin on: June 30, 2005.

Levin signed the Uniform Submission Agreement: June 29, 2005.

Levin's Response to Wachovia's Motion to Liquidate Levin's Account filed on: November 21, 2005.

Levin's Response to Wachovia's Motion for Leave to Amend Statement of Claim filed on: November 21, 2005.

CASE SUMMARY

Wachovia asserted the following causes of action:

Levin, a former employee of Wachovia, failed to repay the sums due on a loan evidenced by a Promissory Note which he entered into as part of his employment with Wachovia. Pursuant to the terms of the Note, upon termination of his employment for "any reason whatsoever," the unpaid balance of the Note would become immediately due and payable. Upon termination of Levin's employment in December 2004, written demand was made for payment of the Note. Levin has failed to pay the sums due under the Note.

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

1. The Statement of Claim is barred by the applicable statutes of limitations; and,
2. The Statement of Claim fails to state a claim upon which relief can be granted.

Levin asserted the following causes of action in his Counter-Claim:

1. Breach of contract and wrongful termination;
2. Breach of contract for failure to pay to Levin sums held under an income withholding plan;
3. Conversion for inducing or requiring Levin to forfeit funds upon separation;
4. ~~Unjust enrichment for wrongfully withholding or converting Levin's earned income;~~
5. Breach of fiduciary duty;
6. Breach of a Constructive Trust; and,
7. Breach of Covenant of Good Faith and Fair Dealing.

These causes of action related to the circumstances of the termination of his employment and Wachovia's withholding and/or forfeiture of income earned by Levin during the term of his employment.

Unless specifically admitted in its Reply to the Counter-Claim, Wachovia denied the allegations made in the Counter-Claim.

RELIEF REQUESTED

Wachovia requested the following damages in its Claim:

Compensatory Damages	\$618,220.28
Interest (Accrued during the term of the Note)	\$ 3,092.64
Interest (From 12/10/04 until paid)	At the rate of 5% per annum or \$84.69 per day
Attorneys' Fees	Pursuant to the terms of the Note
Other Costs	Pursuant to the terms of the Note

Other Monetary/Non-Monetary Relief if any: Any other relief as the Arbitrators deem just and equitable.

In addition, Wachovia requested that Levin's Counter-Claim be denied and that it recover the relief requested in the Statement of Claim. Wachovia also requested an Order allowing Wachovia to liquidate the positions in Levin's securities account at Wachovia.

Levin requested:

1. The Statement of Claim be dismissed with prejudice;
2. The Panel order the release to Levin of all monies being withheld by Wachovia in the individual investment account;
3. His reasonable attorneys' fees and costs;
4. A full accounting and return of all shares and options, earned income and other assets Wachovia holds in trust for Levin;
5. Pre- and post-judgment interest value of dividends for stock forfeited from the time of forfeiture to date;
6. Unpaid income;
7. Attorneys' fee and costs;
8. Exemplary damages; and
9. Such other relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On November 29, 2005, the Panel denied Wachovia's Motion to Liquidate Levin's Account, but granted Wachovia's Motion for Leave to Amend Statement of Claim.

AWARD

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

1. Respondent/Counter-Claimant Daniel Edward Levin is liable for and shall pay to the Claimant/Counter-Respondent Wachovia Securities, LLC the sum of \$618,220.28 as compensatory damages, plus interest at the rate of 5% per annum accruing from December 10, 2004 through June 7, 2006;
2. Claimant/Counter-Respondent Wachovia Securities, LLC is liable for and shall pay to the Respondent/Counter-Claimant Daniel Edward Levin the sum of \$278,768.20 as compensatory damages, plus interest at the rate of 5% per annum accruing from December 10, 2004 through June 7, 2006;
3. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated in this decision; and ,
4. Any and all relief not specifically addressed herein, including punitive or

exemplary damages, 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	= \$ 1,250.00
Counter claim/Cross claim	= \$ 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. Accordingly, Wachovia Securities, LLC is a party and the following member fees are assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

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 Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: September 30, 2005	1 session
Four (4) Hearing sessions @ \$1,200.00	= \$ 4,800.00
Hearing Dates: June 6, 2006	2 sessions
June 7, 2006	2 sessions
Total Forum Fees	= \$ 6,000.00

The Panel has assessed \$3,000.00 of the forum fees to Claimant/Counter-Respondent Wachovia Securities, LLC, and the remaining \$3,000.00 is assessed to Respondent/Counter-Claimant Daniel Edward Levin.

FEE SUMMARY

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

Initial Filing Fee	= \$ 1,250.00
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Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$11,250.00
Less payments	= \$ 9,450.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

Respondent/Counter-Claimant Daniel Edward Levin is solely liable for:

Filing Fee	= \$ 250.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,250.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 1,550.00

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

ARBITRATION PANEL

William D. Connally - Non-Public Arbitrator, Presiding Chairperson
Sheldon F. Schobert – Non-Public Arbitrator
Robert R. Nursey - Non-Public Arbitrator

Concurring Arbitrators' Signatures

William D. Connally
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Sheldon F. Schobert
Public Arbitrator

Signature Date

Robert R. Nursey
Non-Public Arbitrator

Signature Date

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

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Non-Public Arbitrator, Presiding Chairperson

6-22-06
Signature Date

Sheldon F. Schobert
Public Arbitrator

Signature Date

Robert R. Nursey
Non-Public Arbitrator

Signature Date

6/22/06 Man
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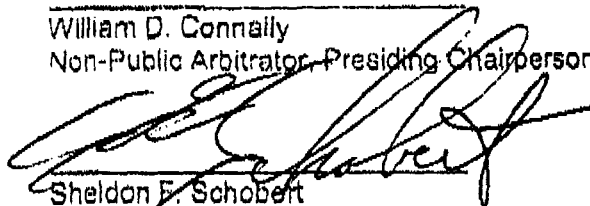
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Non-Public Arbitrator, Presiding Chairperson



Sheldon F. Schobert
Public Arbitrator

Signature Date

6/21/06
Signature Date

Robert R. Nursey
Non-Public Arbitrator

Signature Date

6/22/06 *MM*
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6-22-06

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