
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Wachovia Securities, LLC.

Case Number: 05-03410

Name of the Respondent
Eugene Joseph Enders, Jr.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

For Wachovia Securities, LLC., hereinafter referred to as "Claimant": Jonathan E. Levine, Esq., Law Office of Daniel S. Fiore, Arlington, Virginia.

For Eugene Joseph Enders, Jr., hereinafter referred to as "Respondent": Nicholas A. Dodys, Esq., Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: July 6, 2005.

Claimant signed the Uniform Submission Agreement: June 16, 2005.

Statement of Answer and Counterclaim filed by Respondent on or about: September 27, 2005.

Respondent signed the Uniform Submission Agreement: May 3, 2006.

Statement of Answer to Counterclaim filed by Claimant on or about: October 11, 2005.

Motion to Preclude Respondent from Presenting any Evidence, Claims or Defenses at the Evidentiary Hearings filed by Claimant on or about: April 20, 2006.

Response to Motion to Preclude Respondent from Presenting any Evidence, Claims or Defenses at the Evidentiary Hearings filed by Respondent on or about: April 24, 2006.

Reply to Respondent's Response to Motion to Preclude Respondent from Presenting any Evidence, Claims or Defenses at the Evidentiary Hearings filed by Claimant on or about: April 28, 2006.

Response to Claimant's Reply to Respondent's Response to Motion to Preclude Respondent from Presenting any Evidence, Claims or Defenses at the Evidentiary Hearings filed by Respondent on or about: May 1, 2006.

Objection to Respondent's Hearing Exhibits and Witnesses filed by Claimant on or about: April 27, 2006.

Response to Objection to Respondent's Hearing Exhibits and Witnesses filed by Respondent on or about: April 27, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of promissory notes; 2) unjust enrichment; and, 3) breach of registered representative agreement. The causes of action relate to the termination of Respondent's employment and monies due pursuant to the terms of promissory notes.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In addition, Respondent filed a Counterclaim asserting the following causes of action: 1) failure to deal in good faith; 2) breach of contract; 3) intentional infliction of emotional stress; 4) negligence; 5) violation of the Georgia Unfair Business Practice Act; 6) violation of NASD Conduct Rule 2110; and, 7) violation of NYSE Rule 401.

Unless specifically admitted in its Answer to the Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses

RELIEF REQUESTED

Claimant requested compensatory damages for the first note in the amount of \$29,750.00 plus interest that had accrued as of April 28, 2005 and interest at the rate of 4.75% per annum that has accrued since April 28, 2005 and compensatory damages for the second note in the amount of \$45,311.59 plus interest that had accrued as of April 28, 2005 and interest at the rate of 4.25% per annum that has accrued since April 28, 2005, attorney's fees, costs and such other relief as this Panel deemed it is entitled.

Respondent requested, in his Counterclaim, compensatory damages in the amount of \$95,000.00, an award of the benefits to which he is entitled under his benefits package and pension and profit sharing plan, attorneys' fees, costs and expenses and other losses.

Claimant requested that the Counterclaim be dismissed, with prejudice, and an award of costs and expenses, including attorney's fees and such other relief.

OTHER ISSUES CONSIDERED AND DECIDED

A causal challenge was granted at the start of the evidentiary hearings for this matter against one of the arbitrators on this Panel. The parties mutually agreed to continue the arbitration with the remaining two panel members.

At the final hearing, the Panel granted Claimant's Motion to Preclude as to Respondent's evidence of damages in his counterclaim. The Panel did not uphold Claimant's objection to Respondent's witness and hearing exhibits.

Respondent submitted a pleading to NASD Dispute Resolution that named Cynthia ("Cindy") Wall as a third party respondent, however, Respondent acknowledged that he never served Ms. Wall with the third party claim and the Panel deemed her a non-party to this matter. However, this matter was recorded in her NASD Central Registration Depository (the "CRD") record. At the final hearing, Claimant requested that this matter be expunged from non-party broker Cynthia Wall's NASD CRD record. The Panel granted this request.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

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:

Respondent is found liable for breach of promissory notes and shall pay to Claimant compensatory damages in the amount of \$79,398.39, which includes accrued interest pursuant to the terms of the promissory notes.

Respondent's Counterclaim is denied and dismissed in its entirety.

The parties' requests for attorneys' fees are denied.

Pursuant to NASD Rule 2130, the Panel makes an affirmative finding that the allegations against non-party Cynthia ("Cindy") Wall are false and, therefore, the Panel recommends the expungement of all reference to the above captioned arbitration from non-party Cynthia ("Cindy") Wall's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, non-party Wall must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents

Any and all claims for relief not specifically addressed herein, are 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	= \$ 1,000.00
Counterclaim filing fee	= \$ 225.00

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, Claimant is a party to this dispute and was a member of NASD at the time the following fees were 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

Adjournment Fees

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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:

One (1) Decision on a discovery-related motion on the papers with One (1) Arbitrator @\$200.00	= \$ 200.00
---	-------------

Claimant submitted one (1) discovery-related motion

One (1) Pre-hearing session with the Panel @ \$750.00	= \$ 750.00
---	-------------

Pre-hearing conference: December 19, 2005 1 session

(3) Hearing sessions with the Panel @ \$750.00	= \$2,250.00
--	--------------

Hearing Dates: May 3, 2006 2 sessions

May 4, 2006 1 session

Total Forum Fees	= \$3,200.00
------------------	--------------

The Panel has assessed \$1,600.00 of the forum fees to Claimant.

The Panel has assessed \$1,600.00 of the forum fees to Respondent.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
--------------------	---------------

NASD Dispute Resolution

Arbitration No.05-03410

Award Page 5

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 1,600.00
Total Fees	= \$ 6,150.00
<u>Less payments</u>	= \$ 5,300.00
Balance Due NASD Dispute Resolution	= \$ 850.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 1,600.00
Total Fees	= \$ 1,825.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 850.00

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

ARBITRATION PANEL

Patrick Emery Longan, Esq.

-

Public Arbitrator, Presiding Chairperson

John F. O'Neill, Jr., Esq.

-

Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Patrick Emery Longan, Esq.

Public Arbitrator, Presiding Chairperson

05/09/06

Signature Date

/s/

John F. O'Neill, Jr., Esq.

Public Arbitrator

05/08/06

Signature Date

05/09/06

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

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 1,600.00
Total Fees	= \$ 6,150.00
Less payments	= \$ 5,300.00
Balance Due NASD Dispute Resolution	= \$ 850.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,600.00
Total Fees	= \$ 1,825.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 850.00

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

ARBITRATION PANEL

Patrick Emery Longan, Esq.

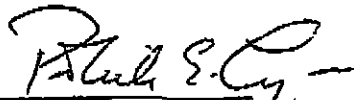
John F. O'Neill, Jr., Esq.

-
-

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Concurring Arbitrators' Signatures



Patrick Emery Longan, Esq.

Public Arbitrator, Presiding Chairperson

May 9, 2006

Signature Date

John F. O'Neill, Jr., Esq.

Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No.05-03410
Award Page 5

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 1,600.00
Total Fees	= \$ 6,150.00
Less payments	= \$ 5,300.00
Balance Due NASD Dispute Resolution	= \$ 850.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,600.00
Total Fees	= \$ 1,825.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 850.00

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

ARBITRATION PANEL

Patrick Emery Longan, Esq.
John F. O'Neill, Jr., Esq.

Public Arbitrator, Presiding Chairperson
Public Arbitrator

Concurring Arbitrators' Signatures

Patrick Emery Longan, Esq.
Public Arbitrator, Presiding Chairperson

John F. O'Neill, Jr., Esq.
Public Arbitrator

Signature Date

5/8/06
Signature Date

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