

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Wachovia Securities, LLC (Claimant) vs. Timothy Behany (Respondent)

Case Number: 06-00269

Hearing Site: Newark, New Jersey

Nature of the Dispute: Member vs. Associated Person

REPRESENTATION OF PARTIES

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

Respondent Timothy Behany hereinafter referred to as "Respondent": Kevin P. Conway, Esq., and Jennifer A. Pogorelec, Esq., Conway & Conway, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 18, 2006.

Amended Statement of Claim filed on or about: July 28, 2006.

Claimant signed the Uniform Submission Agreement: September 15, 2005.

Statement of Answer, Counterclaim, and Motion to Dismiss filed by Respondent on or about: March 9, 2006.

Respondent signed the Uniform Submission Agreement: March 8, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: breach of promissory note, overpayment of commissions, unjust enrichment, and reimbursement of customer complaint settlements.

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

In his Counterclaim, Respondent asserted the following causes of action: termination without cause resulting in Respondent's non-liability under the employment agreement.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$56,878.97 plus interest, attorneys' fees, costs, and such other relief to which Claimant is entitled.

Respondent requested dismissal of the Statement of Claim in its entirety, costs,

attorneys' fees, unspecified punitive damages, and such other and further relief as the arbitrators deem appropriate under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing Respondent Moved to Dismiss all claims. After due deliberation the Panel denied Respondent's Motion to Dismiss.

During the hearing Respondent Moved to Compel the Appearance of a Witness. After due deliberation the Panel denied Respondent's Motion to Compel.

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

1. Claimant's claims are denied in their entirety.
2. Respondent's counterclaim is denied in its entirety.
3. Any and all relief not specifically addressed herein, including punitive 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	= \$ 1,000.00
Counterclaim 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. Accordingly, Wachovia Securities, LLC is a party.

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,200.00

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 Panel, including a pre-hearing conference with the

arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Decisions on discovery-related motions on the papers
with (1) one arbitrator @ \$200.00 = \$ 400.00

Claimant submitted one discovery-related motion
Respondent submitted one discovery-related motion

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: October 25, 2006 1 session

One (1) Pre-hearing session with Panel @ \$1,000.00 = \$ 1,000.00
Pre-hearing conference: June 12, 2006 1 session

Three (3) Hearing sessions with Panel @ \$1,000.00 = \$ 3,000.00
Hearing Dates: February 6, 2007 2 sessions
February 7, 2007 1 session

Total Forum Fees = \$ 4,850.00

1. The Panel has assessed \$2,425.00 of the forum fees to Claimant.
2. The Panel has assessed \$2,425.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 4,050.00
Forum Fees	= \$ 2,425.00
Total Fees	= \$ 7,475.00
Less payments	= \$ 3,600.00
Balance Due NASD Dispute Resolution	= \$ 3,875.00

2. Respondent is solely liable for:


Counterclaim Filing Fee	= \$ 250.00
Forum Fees	= \$ 2,425.00
Total Fees	= \$ 2,675.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,675.00

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

ARBITRATION PANEL

Richard D. Gueren	-	Non-Public Arbitrator, Presiding Chairperson
Nicholas J. Chohey	-	Non-Public Arbitrator
Ursula Clay, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Nicholas J. Chohey
Non-Public Arbitrator

Feb. 8, 2007
Signature Date

Ursula Clay, Esq.
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Richard D. Gueren
Non-Public Arbitrator, Presiding Chairperson

Signature Date

February 13, 2007

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Richard D. Gueren	-	Non-Public Arbitrator, Presiding Chairperson
Nicholas J. Chohey	-	Non-Public Arbitrator
Ursula Clay, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Nicholas J. Chohey
Non-Public Arbitrator

Signature Date



Ursula Clay, Esq.
Non-Public Arbitrator



Signature Date

Dissenting Arbitrator's Signature

Richard D. Gueren
Non-Public Arbitrator, Presiding Chairperson

Signature Date

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Ursula Clay, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

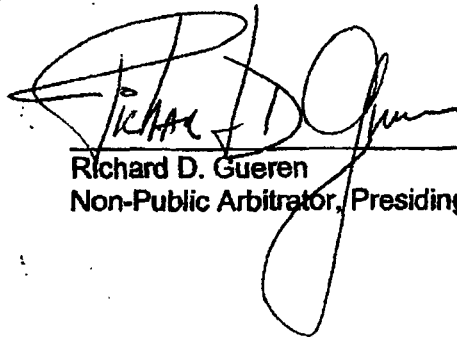
Nicholas J. Chohey
Non-Public Arbitrator

Signature Date

Ursula Clay, Esq.
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature



Richard D. Gueren
Non-Public Arbitrator, Presiding Chairperson

02-09-2007
Signature Date

February 13, 2007

Date of Service (For NASD Dispute Resolution use only)