

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Wachovia Securities, LLC, Claimant v. Eddy J. Gutierrez, Respondent

Case Number: 06-02267

Hearing Site: San Francisco, California

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Timothy N. Will, Esq.
Albert & Will, LLP
Torrance, California

For Respondent:

Albert L. Boasberg, Esq.
Attorney at Law
San Francisco, California

John P. Hurabiell, Esq.
Huppert & Hurabiell
San Francisco, California

CASE INFORMATION

Statement of Claim filed: May 3, 2006

Claimant Wachovia Securities, LLC's ("Wachovia") Uniform Submission Agreement signed: April 10, 2006

Statement of Answer of Respondent Eddy J. Gutierrez filed: June 30, 2006

Respondent Eddy J. Gutierrez's Uniform Submission Agreement signed: July 2, 2006

CASE SUMMARY

Claimant alleged Breach of Promissory Note dated 7/09/01 ("Note One") and Breach of Promissory Note dated 09/17/02 ("Note Two") with respect to Respondent Eddy J. Gutierrez's employment with Wachovia.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested the following relief with respect to Note One:

1. The principal balance due and owing under Note One in the amount of \$206,231.47;
2. Interest accrued during the period of Respondent's employment with Wachovia on Note One at the Applicable Federal Rate;
3. Interest at the legal rate of 10% per annum on the balance due and owing under Note One from the date of default (June 18, 2004) to the date of payment;
4. The costs of collection and of this proceeding, including attorneys' fees as agreed to under the terms of Note One; and
5. Any other relief as the Arbitrators deem just and equitable.

Claimant requested the following relief with respect to Note Two:

1. The principal balance due and owing under Note Two in the amount of \$4,301.30;
2. Interest accrued during the period of Respondent's employment with Wachovia on Note Two;
3. Interest at the rate of 7.25% on the balance due and owing under Note Two from the date of default (June 18, 2004) to the date of payment;
4. The costs of collection and of this proceeding, including attorneys' fees as agreed to under the terms of Note Two; and
5. Any other relief as the Arbitrators deem just and equitable.

Respondent requested that Claimant be granted no relief pursuant to its Statement of Claim and that Respondent recover from Claimant his reasonable attorneys' fees, forum fees and all other relief which may be proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

- 1) Respondent is liable to and shall pay Claimant the sum of \$210,532.00, to be paid monthly over fifteen (15) years without interest, in installments of \$1,169.62 per month beginning in March 2007.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Wachovia is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

(1) Pre-hearing conference session with the Panel			
@ \$1,125.00/session			= \$1,125.00
Pre-hearing conference:	September 14, 2006	1 session	
(2) Hearing sessions @ \$1,125.00/session			= \$2,250.00
Hearing Date:	January 9, 2007	2 sessions	
Total Forum Fees			= \$3,375.00

The Panel assessed \$1,687.50 of the forum fees to Claimant.

The Panel assessed \$1,687.50 of the forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 7,887.50
Less Payments	= \$(7,325.00)
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent is charged with the following fees and costs:


Forum Fees	= \$ 1,687.50
Less Payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Mary Curran, Esq.	-	Non-Public Arbitrator, Presiding Chair
Jane F. Gundermann	-	Non-Public Arbitrator
James Conrad Riewerts	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mary Curran, Esq.
Chair, Non-Public Arbitrator

1/17/2007
Signature Date

Jane F. Gundermann
Non-Public Arbitrator

Signature Date

James Conrad Riewerts
Non-Public Arbitrator

Signature Date

1/23/07
Date of Service

ARBITRATION PANEL

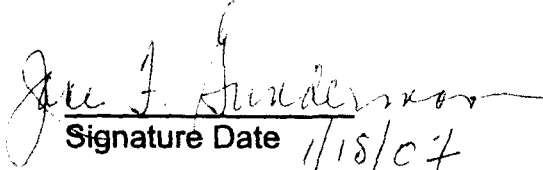
Mary Curran, Esq.	-	Non-Public Arbitrator, Presiding Chair
Jane F. Gundermann	-	Non-Public Arbitrator
James Conrad Riewerts	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mary Curran, Esq.
Chair, Non-Public Arbitrator

Signature Date

Jane F. Gundermann
Non-Public Arbitrator


Signature Date 1/18/07

James Conrad Riewerts
Non-Public Arbitrator

Signature Date

1/23/07
Date of Service

ARBITRATION PANEL

Mary Curran, Esq.	-	Non-Public Arbitrator, Presiding Chair
Jane F. Gundermann	-	Non-Public Arbitrator
James Conrad Riewerts	-	Non-Public Arbitrator

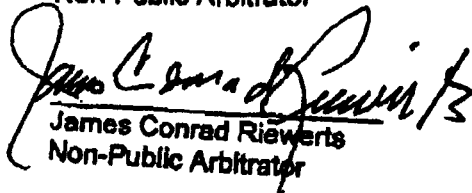
Concurring Arbitrators' Signatures

Mary Curran, Esq.
Chair, Non-Public Arbitrator

Signature Date

Jane F. Gundermann
Non-Public Arbitrator

Signature Date



James Conrad Riewerts
Non-Public Arbitrator

1/22/07
Signature Date

1/23/07
Date of Service