

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

William Dan Gotses, Claimant v. Wells Fargo Securities, Inc., Respondent.

Case Number: 98-00469

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

Claimant, William Dan Gotses, Esq., hereinafter referred to as "Claimant": Philip M. Aidikoff, Esq., Aidikoff & Uhl, Beverly Hills, California.

Respondent, Wells Fargo Securities, Inc., hereinafter referred to as "Respondent": Robert T. Sullwold, Esq., Sullwold & Hughes, San Francisco, California.

CASE INFORMATION

Statement of Claim filed: February 5, 1998

First Amended Statement of Claim filed: August 6, 1998

Claimant signed the Uniform Submission Agreement: February 4, 1998

Statement of Answer filed by Respondent: September 17, 1998

Respondent signed the Uniform Submission Agreement: September 17, 1998

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment agreement and back pay libel and libel per se, slander and slander per se, and interference with advantageous business and contractual relationships.

Respondent denied each and every allegation of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

In Claimant's Amended Statement of Claim, Claimant requested \$600,000 in actual consequential and incidental financial losses in damages caused to Claimant's professional reputation, damages caused to Claimant due to intentional interference with advantageous business and contractual relationships, punitive damages, interest on all sums incurred, attorney's fees, and reimbursement for costs of arbitration. At the conclusion of the hearing, Claimant requested damages of approximately \$138,000, plus interest, attorney's fees and costs.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On November 16, 1999, the Office of Dispute Resolution received a stipulation of the parties dismissing without prejudice Claimant's causes of action for libel and libel per se, slander and slander per se, and interference with advantageous business and contractual relationships. The parties further stipulated that Claimant will proceed only on the cause of action for breach of employment agreement and back pay.

Claimant's First Amended Statement of Claim named only Respondent Wells Fargo Securities, Inc. In a letter dated August 19, 1998, Claimant confirmed that the other Respondents named in the original Statement of Claim (Wells Fargo Bank, Wells Fargo N.A., Paul Nalbandian, Mark Nuoro and Virginia Boyd) were dismissed without prejudice.

At the hearing, Respondent moved to dismiss all claims for compensation with respect to trades which occurred more than four years prior to the filing of the Statement of Claim in February, 1998 as barred by the applicable statute of limitations on written contract claims. The panel granted this motion.

At the hearing, Respondent moved to exclude "lost opportunity" damages to be measured by the returns that Claimant might have achieved by investing any damages awarded by the panel. The panel granted this motion, and Claimant did not call Claimant's expert witness who was to testify solely with respect to measuring such damages.

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

1. Respondent Wells Fargo Securities, Inc. is liable to and shall pay Claimant the sum of \$2,000 in compensatory damages.
2. Respondent Wells Fargo Securities, Inc. is liable to and shall pay Claimant the sum of \$800.00 in attorney's fees.
3. Claimant's request for punitive damages is denied in its entirety.
4. All relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, Wells Fargo Securities, Inc. is a party.

Member Surcharge	= \$3,600
Pre-Hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$3,500</u>
Total Member fees	= \$7,700

Adjournment Fees

Adjournments requested during these proceedings:

May 10, 1999 to May 14, 1999, adjournment requested by Claimant William Dan Gotses and Respondent Wells Fargo Securities, Inc.	= \$1,000
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August 16, 1999 to August 20, 1999, adjournment requested by Claimant William Dan Gotses and Respondent Wells Fargo Securities, Inc.	= \$1,000
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Forum Fees and Assessments

The Arbitrator(Panel) assesses forum fees for each hearing session conducted. A hearing 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 Pre-hearing session with a single arbitrator @ \$300 = \$ 300
Pre-hearing conference: May 10, 1999 1 session

Nine Hearing sessions @ \$1,000 = \$9,000

Hearing Dates: December 13, 1999 1 session
December 14, 1999 2 sessions
December 15, 1999 2 sessions
December 16, 1999 2 sessions
December 17, 1999 2 sessions

Total Forum Fees = \$9,300

1. The Arbitration Panel has assessed \$4,650 of the forum fees to Claimant William Dan Gotses.
2. The Arbitration Panel has assessed \$4,650 of the forum fees to Respondent Wells Fargo Securities, Inc.

Fee Summary

1. Claimant, William Dan Gotses, be and hereby is solely liable for:

Initial Filing Fee	= \$ 500
Adjournment Fee	= \$ 1,000
Forum Fees	= \$ 4,650
Total Fees	= \$ 6,150
Less payments	= \$ 3,700
Balance Due NASD Regulation, Inc.	= \$ 2,450

2. Respondent, Wells Fargo Securities, Inc. be and hereby is solely liable for:

Member Fees	= \$ 7,700
Adjournment Fee	= \$ 1,000
Forum Fees	= \$ 4,650
Total Fees	= \$13,350
Less payments	= \$14,800
Refund Due Wells Fargo Securities, Inc.	= \$ 1,450

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signature(s)



Franklin G. Allen, Esq.
Public Arbitrator, Presiding Chair

12/28/99
Signature Date

George Hubner
Public Arbitrator

Signature Date

Suzanne Vian Chamberlain
Industry Arbitrator

Signature Date


Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 98-00469
Award Page 5 of 5

Concurring Arbitrators' Signature(s)

Franklin G. Allen, Esq.
Public Arbitrator, Presiding Chair

Signature Date



George Hubner
Public Arbitrator

12/37/1999

Signature Date

Suzanne Viau Chamberlain
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)


Concurring Arbitrators' Signatures

Franklin G. Allen, Esq.
Public Arbitrator, Presiding Chair

Signature Date

George Hubner
Public Arbitrator

Signature Date


Suzanne Visu Chamberlain
Industry Arbitrator

12.29.99
Signature Date

December 30, 1999
Date of Service