

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

Wachovia Securities, Inc.

Case No. 99-03174

Name of Respondent

Owen B. Bowers

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**REPRESENTATION OF PARTIES**

For Wachovia Securities, Inc. ("Wachovia"), hereinafter referred to as "Claimant": Pamela P. Warnement, Senior Vice President and Deputy General Counsel, Wachovia, Charlotte, North Carolina.

Owen B. Bowers, hereinafter referred to as "Respondent", appeared pro se.

**CASE INFORMATION**

Statement of Claim filed on or about: July 12, 1999.

Claimant signed the Uniform Submission Agreement on: July 9, 1999.

Statement of Answer filed by Respondent on or about: December 7, 1999.

Respondent signed the Uniform Submission Agreement on: December 2, 1999.

**CASE SUMMARY**

Claimant asserted that Respondent executed an employment agreement and promissory note and that Respondent failed to repay \$40,297.36 plus interest due on the promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: 1) Respondent did not request a loan from Claimant; and 2) Respondent does not owe any money to Claimant.

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$40,297.36; 2) interest; and 3) costs and expenses as provided under the terms of the promissory note.

Respondent requested: 1) dismissal of the Statement of Claim; and 2) costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent failed to appear at the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent has been properly served with the Statement of Claim, answered the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

Claimant at the evidentiary hearing has 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 any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$40,297.36 plus pre-judgment interest in the amount of \$6,178.95. Post-judgment interest shall begin to accrue as of December 1, 2000, at the rate of eight percent (8%) per annum, and shall continue to accrue until the Award is paid in full.
2. Respondent is liable and shall pay to Claimant the sum of \$1,340.50 representing reimbursement of costs incurred by Claimant. The Panel awards reimbursement of costs pursuant to the terms of the promissory note.
3. Respondent is liable and shall pay to Claimant its reasonable attorneys' fees in the amount of \$2,675.00. The Panel awards attorneys' fees pursuant to the terms of the promissory note.
4. All other requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$1,000.00
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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 is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

#### **Forum Fees and Assessments**

The 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 (1) Pre-hearing session with Panel x \$600.00	= \$ 600.00
Pre-hearing conference: May 22, 2000 1 session	

One (1) Hearing session x \$600.00	= \$ 600.00
Hearing Date: November 17, 2000 1 session	

Total Forum Fees	= \$1,200.00
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The Panel has assessed the total forum fees of \$1,200.00 to Respondent.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

#### **Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$2,400.00
Total Fees	= \$3,400.00
<u>Less payments</u>	<u>= \$3,400.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent be and hereby is solely liable for:

Forum Fees	= \$1,200.00
Total Fees	= \$1,200.00

<u>Less payments</u>	<u>= \$ 0.00</u>	
Balance Due NASD Dispute Resolution, Inc.		= \$1,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

**Concurring Arbitrators' Signatures**

/s/  
Robert Shiffra, Esq.  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

/s/  
James R. Shields  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

/s/  
Harold Engelman  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

December 5, 2000  
Date of Service (For NASD-DR office use only)

Less payments

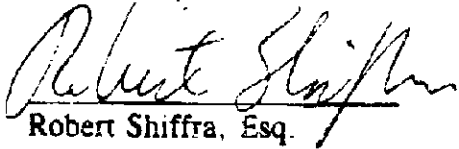
= \$ 0.00

Balance Due NASD Dispute Resolution, Inc.

= \$1,200.00

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Concurring Arbitrators' Signatures



Robert Shiffra, Esq.  
Industry Arbitrator, Presiding Chair

12-4-00  
Signature Date

James R. Shields  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

Harold Engelman  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD-DR office use only)

Less payments

= \$ 0.00

Balance Due NASD Dispute Resolution, Inc.

= \$1,200.00

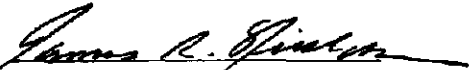
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**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Robert Shiffra, Esq.

Industry Arbitrator, Presiding Chair

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Signature Date

  
James R. Shields

Industry Arbitrator

12-1-00  
Signature Date

\_\_\_\_\_  
Harold Engelman  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD-DR office use only)

Less payments = \$ 0.00  
Balance Due NASD Dispute Resolution, Inc. = \$1,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.


**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Robert Shiffra, Esq.  
Industry Arbitrator, Presiding Chair

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Signature Date

\_\_\_\_\_  
James R. Shields  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Harold Engelman  
Industry Arbitrator

11/29/00  
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Signature Date

\_\_\_\_\_  
Date of Service (For NASD-DR office use only)