

**AWARD
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Name of Claimant/Counter-Respondent

Wells Fargo Advisors, LLC f/k/a
Wachovia Securities, LLC

vs.

Case Number: 09-06020
Hearing Site: Houston, Texas

Name of Respondent/Counter-Claimant

William Edward Livingston Coster

NATURE OF THE DISPUTE

Associated Person vs. Member

REPRESENTATION OF PARTIES

Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC ("Claimant") was represented by Jack D. Ballard, Esq., Ballard & Littlefield, LLC, Houston, Texas.

William Edward Livingston Coster ("Respondent") was represented by Leonard J. Meyer, Esq., Zimmerman, Axelrad, Meyer, Stern & Wise, P.C., Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about October 7, 2009. The Submission Agreement of Claimant was signed on or about October 7, 2009.

The Statement of Answer and Counterclaim was filed by Respondent on or about December 23, 2009. The Submission Agreement of Respondent was signed on or about December 3, 2009.

Claimant's Answer to Counterclaim was filed on or about January 13, 2010.

CASE SUMMARY

Claimant asserted the following causes of action: promissory estoppel; breach of contract; money had and received; and unjust enrichment. The causes of action related to Claimant's allegation that Respondent received a 2009 Retention Award and after his termination from Claimant's employ, Respondent failed to repay monies due and owing under the terms of the Retention Program Document.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted defenses including the following: Respondent is not legally required to pay back the Retention Award; if the Panel finds that Respondent is subject to the specific terms of the Retention Program Document, Respondent is subject to the "Special Circumstances" provision; and Respondent has an offsetting claim for constructive discharge.

Respondent asserted the following cause of action in his Counterclaim: constructive discharge. The cause of action related to Respondent's allegation that Claimant's company policies relating to the commodities futures business drove several of Respondent's large clients away from Claimant and would have eliminated approximately 90% of Respondent's revenue production.

Unless specifically admitted in its Answer to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted defenses including the following: Respondent was an employee at will and could be terminated if Claimant chose to do so; and Respondent's counterclaim will fail both factually and legally.

RELIEF REQUESTED

Claimant requested an award in the amount of:

| | |
|-----------------------------|--------------|
| Actual/Compensatory Damages | \$131,690.44 |
| Interest | Unspecified |
| Other Monetary Relief | Unspecified |

At the close of the hearing, Claimant requested an award in the amount of:

| | |
|-----------------------------|--------------|
| Actual/Compensatory Damages | \$131,690.44 |
| Interest | Unspecified |
| Other Monetary Relief | Unspecified |
| Attorneys' Fees | Unspecified |

Respondent requested that the claims asserted against him be denied in their entirety and that he be awarded damages requested in his Counterclaim.

In the Counterclaim, Respondent requested an award in the amount of:

| | |
|-----------------------------|--------------|
| Actual/Compensatory Damages | \$825,000.00 |
| Interest | Unspecified |
| Attorneys' Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary Relief | Unspecified |

Claimant requested that the counterclaim asserted against it be dismissed in their entirety and that it be awarded an award on its claim, and any other appropriate relief.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

At the hearing, Respondent moved to disallow Claimant's attorneys' fees. Respondent moved that Respondent be permitted to present his case first since Respondent would stipulate that if Respondent lost, Respondent would owe the amount claimed, excluding attorneys' fees.

The Panel ruled that Respondent would proceed with its case first, but that Claimant would present its closing argument first and have the right to rebut Respondent's closing argument. At the hearing, the Panel reserved decision on Respondent's motion that Claimant's attorneys' fees be disallowed and has determined that based on the decision herein, the issue is moot.

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

- 1.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC's claims, each and all, are denied and dismissed with prejudice;
- 2.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC, is liable for and shall pay to William Edward Livingston Coster the sum of \$441,317.38 in compensatory damages on Respondent's Counterclaim;
- 3.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC, is liable for and shall pay to William Edward Livingston Coster the sum of \$5,739.59 in costs on Respondent's Counterclaim;
- 4.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC, is liable for and shall reimburse William Edward Livingston Coster the sum of \$375.00 as reimbursement for the non-refundable portion of Respondent's Filing Fee retained by FINRA;
- 5.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC, is liable for and shall pay to William Edward Livingston Coster the sum of \$96,232.50 in attorneys' fees on Respondent's Counterclaim pursuant to Texas statute;

- 6.) Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC, is liable for and shall pay to William Edward Livingston Coster the sum of \$3,650.00 in contingency fees in the event Claimant moves to vacate the Award and loses the motion to vacate; and
- 7.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

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|--------------------------|---------------|
| Initial Claim filing fee | = \$ 2,125.00 |
| Counterclaim filing fee | = \$ 1,575.00 |

**The filing fee is made up of a non-refundable and a refundable portion.*

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, as a party, Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC is assessed the following:

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|-------------------------|---------------|
| Member surcharge | = \$ 1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$ 4,000.00 |

Adjournment Fees

Adjournment granted during these proceedings:

| | |
|---|--------|
| November 2-4, 2010, adjournment requested jointly | Waived |
|---|--------|

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each hearing 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:

| | |
|---|----------------------|
| Four (4) Pre-hearing sessions with Panel x \$1,200.00 | = \$ 4,800.00 |
| Pre-hearing conferences: March 15, 2010 | 1 session |
| March 31, 2010 | 1 session |
| September 30, 2010 | 1 session |
| October 18, 2010 | 1 session |
| Six (6) Hearing sessions x \$1,200.00 | = \$ 7,200.00 |
| Hearing Dates: February 9, 2011 | 3 sessions |
| February 10, 2011 | 3 sessions |
| <hr/> Total Hearing Session Fees | <hr/> = \$ 12,000.00 |

The Panel has assessed \$12,000.00 of the hearing session fees to Wells Fargo Advisors, LLC f/k/a Wachovia Securities, LLC.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Maxel (Bud) B. Silverberg - Public Arbitrator, Presiding Chair
Juanita D. Ray, MBA - Public Arbitrator
Marjorie C. Johnson - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

| | |
|--------------------------------------|-----------------|
| <u>/s/ Maxel (Bud) B. Silverberg</u> | <u>03/04/11</u> |
| Maxel (Bud) B. Silverberg | Signature Date |
| Public Arbitrator, Presiding Chair | |

| | |
|--------------------------------|-----------------|
| <u>/s/ Juanita D. Ray, MBA</u> | <u>03/03/11</u> |
| Juanita D. Ray, MBA | Signature Date |
| Public Arbitrator | |

| | |
|--------------------------------|-----------------|
| <u>/s/ Marjorie C. Johnson</u> | <u>03/06/11</u> |
| Marjorie C. Johnson | Signature Date |
| Non-Public Arbitrator | |

03/07/11
Date of Service (For FINRA office use only)

| | | |
|---|------------|-----------------------|
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| October 18, 2010 | 1 session | |
| Six (6) Hearing sessions x \$1,200.00 | | = \$ 7,200.00 |
| Hearing Dates: | | |
| February 8, 2011 | 3 sessions | |
| February 9, 2011 | 3 sessions | |
| Total Hearing Session Fees | | = \$ 12,000.00 |

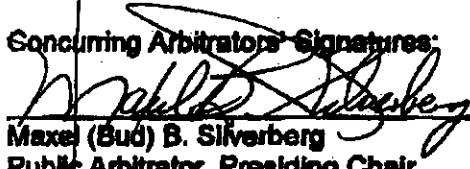
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Juanita D. Ray, MBA - Public Arbitrator
Marjorie C. Johnson - Non-Public Arbitrator

Concurring Arbitrators' Signatures:



Maxel (Bud) B. Silverberg
Public Arbitrator, Presiding Chair

3/4/11

Signature Date

Juanita D. Ray, MBA
Public Arbitrator

Signature Date

Marjorie C. Johnson
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA office use only)

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Juanita D. Ray, MBA - Public Arbitrator
Marjorie C. Johnson - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Maxel (Bud) B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date



Juanita D. Ray, MBA
Public Arbitrator

3-3-11

Signature Date

Marjorie C. Johnson
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA office use only)

| | |
|---|-----------------------|
| Four (4) Pre-hearing sessions with Panel x \$1,200.00 | = \$ 4,800.00 |
| Pre-hearing conferences: March 15, 2010 | 1 session |
| March 31, 2010 | 1 session |
| September 30, 2010 | 1 session |
| October 18, 2010 | 1 session |
| Six (6) Hearing sessions x \$1,200.00 | = \$ 7,200.00 |
| Hearing Dates: February 8, 2011 | 3 sessions |
| February 9, 2011 | 3 sessions |
| Total Hearing Session Fees | = \$ 12,000.00 |

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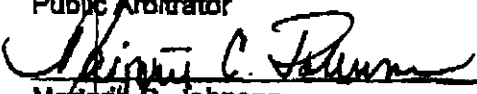
Concurring Arbitrators' Signatures:

Maxel (Bud) B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

Juanita D. Ray, MBA
Public Arbitrator

Signature Date



Marjorie C. Johnson
Non-Public Arbitrator

3-6-11

Signature Date

Date of Service (For FINRA office use only)