

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Thomas Joseph Murphy

Case Number: 15-02449

vs.

Respondent
Wedbush Securities Inc.

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

Claimant Thomas Joseph Murphy, hereinafter referred to as "Claimant": Donald Potter, Esq., Law Office of Donald Potter, Pasadena, California

Respondent Wedbush Securities Inc., hereinafter referred to as "Respondent": Charles B. LaChaussee, Esq. and Matthew Klafter, Esq., Wedbush Securities Inc., Los Angeles, California

CASE INFORMATION

Statement of Claim filed on or about: September 18, 2015
Claimant signed the Submission Agreement: August 25, 2015

Statement of Answer filed by Respondent on or about: November 16, 2015
Respondent signed the Submission Agreement: October 5, 2015

CASE SUMMARY

Claimant asserted the following causes of action: failure to pay all wages due in violation of the California Labor Code § 204, 510 & 1194; breach of contract; and conversion. The causes of action relate to Claimant's former employment with Respondent.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Minimum wages for all hours worked by Claimant pursuant to California Labor

- Code §§ 204, 1194 & 1194.2;
2. Monetary damages for unpaid incentive pay;
 3. Interest on his unpaid incentive pay pursuant to California Labor Code § 218.6;
 4. Attorneys' fees and costs incurred to recover his unpaid incentive pay pursuant to California Labor Code § 218.5 and other applicable statutes or FINRA rules or procedures;
 5. General damages, including emotional distress, as a result of the wrongful conversion of his unpaid incentive pay;
 6. Punitive damages as a result of the wrongful conversion of his unpaid incentive pay; and
 7. Such other and further relief as this Panel may deem proper and just.

In the Statement of Answer, Respondent requested:

1. Claimant take nothing by reason of his Statement of Claim;
2. Claimant's claims for violation of any California Labor Code sections, breach of contract and for conversion be dismissed with prejudice;
3. No basis whatsoever be found for an award of pre-judgment interest, attorneys' fees, costs, penalties or punitive damages;
4. An award in favor of Respondent;
5. Attorneys' fees and costs to the extent permitted pursuant to applicable law; and
6. Such other and further relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

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

1. Respondent is liable for and shall pay to Claimant nonpayment of wages in the amount of \$145,833.00, plus interest at the rate of 10% per annum beginning February 1, 2015 until the amount of \$145,833.00 is paid in full.
2. Respondent is liable for and shall pay to Claimant unpaid trading incentive for fiscal year 2013 in the amount of \$221,060.00.
3. Respondent is liable for and shall pay to Claimant unpaid trading incentive for fiscal year 2015 in the amount of \$208,000.00.
4. Respondent is liable for and shall pay to Claimant unpaid override for fiscal year 2013 in the amount of \$6,640.00.

5. Respondent is liable for and shall pay to Claimant unpaid override for fiscal year 2014 in the amount of \$160,465.30.
6. Respondent is liable for and shall pay to Claimant punitive damages in the amount of \$300,000.00, pursuant to Haigler v. Donnelly, 18 Cal.2d 674 (1941).
7. Respondent is liable for and shall pay to Claimant attorneys' fees in the amount of \$82,500.00, pursuant to the California Labor Code § 218.5.
8. Respondent is liable for and shall pay to Claimant the sum of \$800.00 in costs.
9. Respondent's request for attorneys' fees is denied.
10. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$1,575.00

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

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000), Claimant Thomas J. Murphy is assessed a \$200.00 filing fee. The balance of the nonrefundable portion of the filing fee, in the amount of \$175.00, is assessed to Respondent Wedbush Securities Inc.

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. Accordingly, as a party, Wedbush Securities Inc. is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. 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:

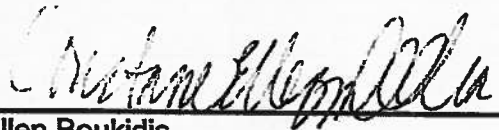
Two (2) pre-hearing sessions with the Panel @ \$ 1,125.00/session = \$ 2,250.00

ARBITRATION PANEL

Constance Ellen Boukidis	-	Public Arbitrator, Presiding Chairperson
Eric Gad Forster	-	Public Arbitrator
Edward Banian	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Constance Ellen Boukidis
Public Arbitrator, Presiding Chairperson

12/27/16

Signature Date

Eric Gad Forster
Public Arbitrator

Signature Date

Edward Banian
Non-Public Arbitrator

Signature Date

December 28, 2016
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Constance Ellen Boukidis	-	Public Arbitrator, Presiding Chairperson
Eric Gad Forster	-	Public Arbitrator
Edward Banian	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

Constance Ellen Boukidis
Public Arbitrator, Presiding Chairperson

Signature Date

Eric Gad Forster
Public Arbitrator

compliant with 15 USC 7001
By Eric Forster at 12:35 pm, Dec 27, 2016

Signature Date

Edward Banian
Non-Public Arbitrator

Signature Date

December 28, 2016
Date of Service (For FINRA Office of Dispute Resolution office use only)

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12-27-2016

Signature Date

December 28, 2016
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