

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 00-05345

A. M. Gregory Jr. and
A. M. Gregory, III

Name of the Respondents

Hearing Site: Charlotte, North Carolina

Wachovia Securities, Inc.,
Samuel D. Turner,
Sharon C. Bryant, and
National Financial Services Corporation

REPRESENTATION OF PARTIES

Claimants A. M. Gregory Jr. and A. M. Gregory, III, hereinafter collectively referred to as "Claimants", were represented by William B. Little, Little and Little, PLLC, Raleigh, North Carolina.

Respondents Wachovia Securities, Inc. ("Wachovia"), Samuel D. Turner ("Turner"), and Sharon C. Bryant ("Bryant") were represented by Peter J. Covington, Esq., Helms Mullis & Wicker, Charlotte, North Carolina.

Respondent National Financial Services Corporation ("NFSC") was represented by Donna Lee, Esq., Attorney at Law, Raleigh, North Carolina.

CASE INFORMATION

Statement of Claim filed on November 30, 2000.

Claimants signed the Uniform Submission Agreement on November 27, 2000.

Claimants' First Amendment to Their Statement of Claim was filed on April 20, 2001.

Statement of Answer filed by Respondents Wachovia, Turner and Bryant on March 12, 2001.

Michael D. Hearn, Senior Managing Director and General Counsel, executed Respondent Wachovia's Uniform Submission Agreement on March 12, 2001.

Respondents Turner and Bryant did not file Uniform Submission Agreements with NASD Dispute Resolution.

Statement of Answer and Motion to Dismiss was filed by Respondent NFSC on March 14, 2001. A representative of Respondent NFSC executed the Uniform Submission Agreement on March 12, 2001.

Respondent NFSC's Response to First Amendment to Statement of Claim was filed on May 7, 2001.

CASE SUMMARY

Claimants asserted the following causes of action, among others: negligence and gross negligence; breach of fiduciary duty; actual common law fraud; breach of contract; common law negligent misrepresentation; common law constructive fraud; and, failure to supervise. The causes of action relate to the sale of Didax warrants.

Unless specifically admitted in their Answer, Respondents Wachovia, Turner, and Bryant denied the allegations made in the Statement of Claim and asserted the following defenses: waiver; ratification; estoppel; assumption of risk; contributory negligence; comparative negligence; failure to mitigate; and, Respondents did not owe a fiduciary duty.

Unless specifically admitted in their Answer, Respondent NSFC denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; statute of limitations; laches and estoppel; waiver; ratification; failure to mitigate; assumption of loss; contributory negligence; and, Respondent was not a fiduciary.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 500,000-1,000,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondents Wachovia, Turner, and Bryant in their Statement of Answer requested that the claims against them be dismissed, and that they be awarded all costs, legal fees and expenses incurred in connection with this arbitration and, that the Panel direct that all forum fees be borne by Claimants.

Respondent NSFC in its Statement of Answer and Motion to Dismiss requested that the Statement of Claim be dismissed with prejudice, and that it be award costs and attorneys' fees incurred in defending this matter.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Turner and Bryant did not file with NASD Dispute Resolution, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code of Arbitration Procedure (the "Code") and having answered the claim are bound by the determination of the Panel on all issues submitted.

On May 6, 2002, the Panel entered a sanction order awarding \$3,635.00 in attorneys' fees in favor of the Claimants and against Respondent NFSC for Respondent's discovery abuse. At the close of the hearing, the Panel provided counsel with the opportunity to be heard regarding said order. Counsel for Claimants and Respondent NFSC declined to make additional arguments regarding the matter and reaffirmed their previously submitted positions. The Panel, after due consideration, affirms its May 6, 2002 sanction order.

At the close of the evidence, Respondents' counsels moved to dismiss the claim. Said motions were denied.

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 NSFC shall pay to Claimants attorneys' fees in the amount of \$3,625.00;
2. All substantive claims against Respondent NSFC are denied in their entirety;
3. All claims against Respondents Wachovia, Bryant, and Turner are denied in their entirety;
4. The parties shall bear their respective costs except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

Panelist Van Pelt concurred in part and dissented in part with the Panel's decision. Panelist Van Pelt concurred with the Panel's award of attorneys' fees to Claimants against Respondent NSFC. Panelist Van Pelt dissented with the remainder of the Panel's ruling.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 375.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondents Wachovia and NFSC are parties.

Respondent Wachovia's member fees are as follows:

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

Respondent NFSC's member fees are as follows:

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

Forum Fees and Assessments

The Panel has assessed forum 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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$ 450.00 = \$ 1,350.00

Pre-hearing conferences: October 31, 2001 2 sessions
 November 1, 2001 1 session

Three (3) Pre-hearing sessions with Panel @ \$ 1,200.00 = \$ 3,600.00

Pre-hearing conferences: June 13, 2001 1 session
 November 27, 2001 1 session
 April 2, 2002 1 session

Ten (10) Hearing sessions @ \$ 1,200.00 = \$ 12,000.00

Hearing Dates: October 21, 2002 2 sessions
 October 22, 2002 2 sessions
 October 23, 2002 3 sessions
 October 24, 2002 2 sessions
 October 25, 2002 1 session

Total Forum Fees = \$ 16,950.00

1. The Panel has assessed \$5,650.00 of the forum fees to Claimants.
2. The Panel has assessed \$5,650.00 of the forum fees to Respondent Wachovia.
3. The Panel has assessed \$5,650.00 of the forum fees to Respondent NSFC.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters,

and security.

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| 1. Claimants requested copies of tapes | = \$ 45.00 |
| 2. Respondent NSFC requested copies of tapes | = \$ 345.00 |

EEE SUMMARY

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| 1. Claimant is assessed the following fees: | |
| Initial Filing Fee | = \$ 375.00 |
| Forum Fees | = \$ 5,650.00 |
| <u>Administrative Costs</u> | <u>= \$ 45.00</u> |
| Total Fees | = \$ 6,070.00 |
| <u>Less payments</u> | <u>= \$ 1,575.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 4,495.00 |
| 2. Respondent Wachovia is assessed the following fees: | |
| Member Fees | = \$ 6,100.00 |
| <u>Forum Fees</u> | <u>= \$ 5,650.00</u> |
| Total Fees | = \$ 11,750.00 |
| <u>Less payments</u> | <u>= \$ 6,100.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 5,650.00 |
| 3. Respondent NFSC is assessed the following fees: | |
| Member Fees | = \$ 6,100.00 |
| Forum Fees | = \$ 5,650.00 |
| <u>Administrative Costs</u> | <u>= \$ 345.00</u> |
| Total Fees | = \$ 12,095.00 |
| <u>Less payments</u> | <u>= \$ 6,100.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 5,995.00 |

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

ARBITRATION PANEL

Chase Boon Saunders	-	Public Arbitrator, Presiding Chairperson
James A. Cormack	-	Public Arbitrator, Panelist
W. Wells Van Pelt, Jr.	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Chase Boone Saunders
Public Arbitrator, Presiding Chairperson

1/2/02

Signature Date

James A. Cormack
Public Arbitrator, Panelist

Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

W. Wells Van Pelt, Jr.
Non-Public Arbitrator, Panelist

Signature Date

January 7, 2003

Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Chase Boon Saunders
Public Arbitrator, Presiding Chairperson

Signature Date

James A. Cormack
James A. Cormack
Public Arbitrator, Panelist

January 3, 2003
Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

W. Wells Van Pelt, Jr.
Non-Public Arbitrator, Panelist

Signature Date

January 7, 2002
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Chase Boon Saunders
Public Arbitrator, Presiding Chairperson

Signature Date

James A. Cormack
Public Arbitrator, Panelist

Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

W. Wells Van Pelt, Jr.

W. Wells Van Pelt, Jr.
Non-Public Arbitrator, Panelist

6 Jan 03
Signature Date

January 7, 2002

Date of Service (For NASD Dispute Resolution office use only)