

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert J. Burgess, James Burgess, Conway Worldwide Ltd., D-Ram, Dimension Memory, JADIJO, Inc., Claimants v. Tom H. Martindale, William A. King, Raina L. Prigger, E*Offering, IDC Solutions, LLC, First Union Securities, Inc., Respondents

Case Number: 01-02308

Hearing Site: Los Angeles, California

Nature of Dispute: Customers v. Member Firms and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

Robert J. Burgess
James Burgess
Conway Worldwide Ltd.
D-Ram
Dimension Memory
JADIJO, Inc.

William L. Buus, Esq.
Oswald & Yap
Irvine, California

For Respondents:

Tom H. Martindale

Scott W. Wellman, Esq.
Wellman & Warren LLP
Laguna Hills, California

William A. King

Gerald Wolfe, Esq.
Law In Progress, PC
Aliso Viejo, California

Raina L. Prigger

Richard A. Ruben, Esq.
Law Office of Richard A. Ruben
Woodland Hills, California

E*Offering
(f/k/a Meridian Capital Group, Inc.)

Alan S. Petlak, Esq.
Morgan, Lewis & Bockius
Los Angeles, California

IDC Solutions, LLC

In Propria Persona
Aliso Viejo, California

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First Union Securities, Inc.
(n/k/a Wachovia Securities, Inc.)

Timothy N. Will, Esq.
Albert & Will, LLP
Torrance, California

CASE INFORMATION

Statement of Claim filed: May 2, 2001

Claimant Robert J. Burgess' Uniform Submission Agreement signed: April 27, 2001

Claimant James Burgess' Uniform Submission Agreement signed: April 26, 2001

Claimant Conway Worldwide Ltd.' s Uniform Submission Agreement signed: April 27, 2001

Claimant D-Ram's Uniform Submission Agreement signed: April 27, 2001

Claimant Dimension Memory Uniform Submission Agreement signed: April 26, 2001

Claimant JADIJO, Inc.'s Uniform Submission Agreement signed: April 27, 2001

Joint Statement of Answer filed by Respondents Tom H. Martindale, William A. King and Raina L. Prigger: July 20, 2001

First Amended Statement of Answer filed by Respondents Tom H. Martindale, William A. King and Raina L. Prigger: August 21, 2001

Statement of Answer filed by Respondent E*Offering (f/k/a Meridian Capital Group, Inc.):
August 6, 2001

Respondent E*Offering (f/k/a Meridian Capital Group, Inc.) Uniform Submission Agreement
signed: July 24, 2001

Statement of Answer filed by Respondent First Union Securities, Inc.'s (n/k/a Wachovia
Securities, Inc.): August 8, 2001

Respondent First Union Securities, Inc.'s (n/k/a Wachovia Securities, Inc.) Uniform Submission
Agreement signed: August 8, 2001

CASE SUMMARY

Claimants alleged fraud, breach of contract, negligent misrepresentation, failure to supervise, misrepresentation, breach of fiduciary duty, omission of facts, violation of NASD and SRO rules, and violation of Racketeer Influenced and Corrupt Organization Act of 1970 relating to Claimants' investments involving unspecified securities in accounts managed by Respondents.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$825,000.00 in compensatory damages from Respondents First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.), Tom H. Martindale, William A. King and Raina L. Prigger and \$400,000.00 in compensatory damages from Respondents Tom H. Martindale, William A. King and E*Offering (f/k/a Meridian Capital Group, Inc.). Claimants also requested unspecified punitive damages and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Tom H. Martindale, William A. King and Raina L. Prigger did not file with NASD Dispute Resolution a properly executed submission agreement, 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 August 21, 2001, Respondents Tom H. Martindale, William A. King and Raina L. Prigger filed an Amended Statement of Answer pursuant to Rule 10328(a) of the Code.

On September 12, 2001, Respondent IDC Solutions, LLC did not submit to the jurisdiction of NASD Dispute Resolution. Under the Code, Respondent IDC Solutions, LLC was removed as a party to the arbitration since it was not a member of NASD.

On February 25, 2002, Respondent Tom H. Martindale filed for bankruptcy protection with the United States Bankruptcy Court of the Central District of California. As a result of the bankruptcy the arbitration proceedings against Respondent Tom H. Martindale were stayed pursuant to federal law. On June 5, 2002, the United States Bankruptcy Court of the Central District of California issued an Order and Notice of Dismissal for Failure to Appear at 341(a)

Meeting of Creditors With 180-Day Restriction. As a result of the Court's order, the automatic stay was dismissed and the arbitration proceedings continued against Respondent Tom H. Martindale.

On April 23, 2003, Claimants dismissed with prejudice Respondent Raina L. Prigger.

On September 29, 2003, pursuant to a confidential settlement agreement, Claimants dismissed with prejudice Respondents E*Offering (f/k/a Meridian Capital Group, Inc.) and First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.).

At the onset of the evidentiary hearing, Respondents Tom H. Martindale and William A. King moved the Panel to dismiss all claims filed by Claimants on the ground that the Panel lacked jurisdiction to hear the case. The Panel denied the Motion.

At the evidentiary hearing, at the close of Claimants' case, Respondents Tom H. Martindale and William A. King moved the Panel to dismiss or nonsuit all claims filed by Claimants. The Panel denied the Motion.

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

- 1) Respondents Tom H. Martindale and William A. King are jointly and severally liable to and shall pay Claimants the sum of \$301,000.00 in compensatory damages.
- 2) Respondent Tom H. Martindale and William A. King are jointly and severally liable to and shall pay Claimants interest in the amount of 6% per annum on \$301,000.00 from December 17, 2000 until October 9, 2003.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firms E*Offering (f/k/a Meridian Capital Group, Inc.) and First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.) are parties and the following fees are assessed:

E*Offering (f/k/a Meridian Capital Group, Inc.)

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.)

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 3,500.00
Total Member Fees	= \$ 6,100.00

Adjournment Fees

The following adjournment fees are assessed:

July 8, 2002 – July 12, 2002 adjournment requested by Respondents E*Offering (f/k/a Meridian Capital Group, Inc.), First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.), and Raina L. Prigger	= \$ 1,200.00
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June 9, 2003 – June 13, 2003 2002 adjournment requested by Respondents Tom H. Martindale and William A. King	= \$ 1,200.00
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The Panel assessed the adjournment fees equally amongst the moving parties for each adjournment.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel or Chairperson, including a pre-hearing conference, that lasts four (4) hours or less. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: February 4, 2003 1 session	
(1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: December 18, 2001 1 session	
(3) Hearing sessions @ \$1,200.00/session	= \$ 3,600.00
Hearings: October 7, 2003 1 session	
October 9, 2003 2 sessions	

Total Forum Fees	= \$ 5,250.00
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1. The Panel assessed \$2,625.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$1,065.00 of the forum fees to Respondent Tom H. Martindale.
3. The Panel assessed \$1,065.00 of the forum fees to Respondent William A. King.
4. The Panel assessed \$165.00 of the forum fees to Respondent Raina L. Prigger.
5. The Panel assessed \$165.00 of the forum fees to Respondent E*Offering (f/k/a Meridian Capital Group, Inc.).
6. The Panel assessed \$165.00 of the forum fees to Respondent First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.)

Fee Summary

1. Claimants Robert J. Burgess, James Burgess, Conway Worldwide Ltd., D-Ram, Dimension Memory, and JADIJO, Inc. are charged jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 3,125.00
Less payments	= \$(1,200.00)
Balance Due NASD Dispute Resolution	= \$ 1,425.00

2. Respondent Tom H. Martindale is charged with the following fees and costs:

Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 1,065.00
Total Fees	= \$ 1,665.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,665.00

3. Respondent William A. King is charged with the following fees and costs:

Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 1,065.00
Total Fees	= \$ 1,665.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,665.00

4. Respondent Raina L. Prigger is charged with the following fees and costs:

Adjournment Fee	= \$ 400.00
Forum Fees	= \$ 165.00
Total Fees	= \$ 565.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 565.00

5. Respondent E*Offering (f/k/a Meridian Capital Group, Inc.) is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 400.00
Forum Fees	= \$ 165.00
Total Fees	= \$ 5,165.000
Less payments	= \$(7,600.00)
Refund Due	= \$(2,435.00)

6. Respondent First Union Securities, Inc. (n/k/a Wachovia Securities, Inc.) is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Adjournment Fee	= \$ 400.00
Forum Fees	= \$ 165.00
Total Fees	= \$ 6,665.000
Less payments	= \$(7,600.00)
Refund Due	= \$ (935.00)

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

ARBITRATION PANEL

Jack I. Samet, Esq.	-	Public Arbitrator, Presiding Chair
Barbara M. Zak	-	Public Arbitrator
James Warren Hill	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jack I. Samet, Esq.
Chair, Public Arbitrator

Signature Date

Barbara M. Zak
Public Arbitrator

Signature Date

James Warren Hill
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Jack I. Samet, Esq.	-	Public Arbitrator, Presiding Chair
Barbara M. Zak	-	Public Arbitrator
James Warren Hill	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Jack I. Samet, Esq.
Chair, Public Arbitrator

October 30, 2003

Signature Date

Barbara M. Zak
Public Arbitrator

Signature Date

James Warren Hill
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Jack I. Samet, Esq.	-	Public Arbitrator, Presiding Chair
Barbara M. Zak	-	Public Arbitrator
James Warren Hill	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jack I. Samet, Esq.
Chair, Public Arbitrator

Signature Date

Barbara M. Zak
Barbara M. Zak
Public Arbitrator

10-31-03
Signature Date

James Warren Hill
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Jack I. Samet, Esq.	-	Public Arbitrator, Presiding Chair
Barbara M. Zak	-	Public Arbitrator
James Warren Hill	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jack I. Samet, Esq.
Chair, Public Arbitrator

Signature Date

Barbara M. Zak
Public Arbitrator

Signature Date



James Warren Hill
Non-Public Arbitrator

10/29/03

Signature Date

10/31/03

Date of Service