

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Fielding S. Daniel as Trustee of the
Fielding S. Daniel Revocable Trust

Case Number: 02-05151

Name of the Respondents

Wachovia Securities, Inc.
R. Craig White

Hearing Site: Washington, DC

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant, Fielding S. Daniel as Trustee of the Fielding S. Daniel Revocable Trust ("Claimant"), was not represented by counsel and appeared at the hearing *pro se*.

Respondents, Wachovia Securities, Inc. ("WSI") and R. Craig White ("White"), hereinafter collectively referred to as "Respondents", were represented by Andrew R. Park, Esq., Associate General Counsel, Wachovia Securities, Inc., Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on September 3, 2002.

Claimant signed the Uniform Submission Agreement on October 15, 2002.

Claimant filed a Motion to Amend the Statement of Claim on August 26, 2004.

Statement of Answer filed by Respondents on January 2, 2003.

Respondent White signed the Uniform Submission Agreement on December 31, 2002.

Andrew R. Park, Esq. executed Respondent WSI's Uniform Submission Agreement on December 31, 2002.

Respondents filed a Response to the Motion to Amend Statement of Claim on August 31, 2004.

CASE SUMMARY

Claimant asserted the following causes of action, among others: misrepresentations and omission of material facts. The causes of action relate to the rollover of Claimant's GE annuity to WSI annuity.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the doctrines of waiver, estoppel, and ratification bar any recovery in this proceeding; failure to mitigate damages; assumption of risk; statutes of limitations; the Statement of Claim fails to state a claim upon which relief can be granted; and proximate cause.

RELIEF REQUESTED

Claimant in his Amended Statement of Claim requested:

Compensatory Damages	\$ 3,855.37
Punitive Damages	\$15,000.00
Other Costs	\$ 500.00

Respondents in their Statement of Answer requested that the Arbitrator dismiss the Statement of Claim; award Respondent WSI its costs and attorneys' fees; and recommend that all references to this matter be expunged from Respondent White's record maintained by the NASD Central Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On September 16, 2004 the Arbitrator granted Claimant's Motion to Amend Statement of Claim.

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

1. Respondents WSI and White are jointly and severally liable to and shall pay to Claimant compensatory damages in the amount of \$2,000.00, plus interest at 4% per annum on that amount. Interest shall be calculated on a simple basis and shall accrue from April 24, 2001 through October 1, 2004;
2. All claims for punitive damages and attorneys' fees are denied in their entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below;
4. Respondents WSI and White shall reimburse Claimant's Filing Fee of \$125.00 to Claimant; and
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 125.00

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, WSI is a party.

Member surcharge = \$ 425.00
Total Member Fees = \$ 425.00

Forum Fees and Assessments

The Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: June 4, 2003 1 session

Three (3) Hearing sessions @ \$450.00 = \$1,350.00
Hearing Dates: August 26, 2003 1 session
September 29, 2004 2 sessions

Total Forum Fees = \$1,800.00

1. The Arbitrator has assessed \$1,800.00 of the forum fees to WSI

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent WSI requested tape duplication = \$ 30.00

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee = \$ 125.00
Total Fees = \$ 125.00
Less payments = \$ 325.00
Refund Due Claimant = \$ 200.00

2. Respondent WSI is assessed and shall pay the following fees:

Member Fees = \$ 425.00
Forum Fees = \$1,800.00
Administrative Costs = \$ 30.00

Total Fees	= \$2,235.00
<u>Less payments</u>	<u>= \$1,115.00</u>
Balance Due NASD Dispute Resolution	= \$1,120.00

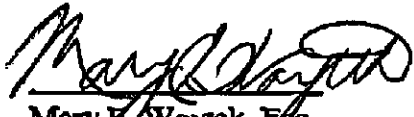
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

SINGLE ARBITRATOR

Mary E. Woytek, Esq.

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature


Mary E. Woytek, Esq.
Public Arbitrator, Chairperson

10/ 8/04
Signature Date

10/11/04
Date of Service (For NASD Dispute Resolution office use only)