

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Virginia L. Jang, Claimant vs. Wachovia Securities, LLC and Jeffrey M. Daft, Respondents

Case Number: 02-05499

Hearing Site: San Francisco, California

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

**REPRESENTATION OF PARTIES**

For Claimant:

Mitchell S. Ostwald, Esq.  
Law Offices of Mitchell S. Ostwald  
Sacramento, California

For Respondents:

G. Thomas Fleming III, Esq.  
Brian G. Mulherin, Esq.  
Jones, Bell, Abbott, Fleming &  
Fitzgerald L.L.P.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: September 13, 2002

Claimant's Uniform Submission Agreement signed: September 13, 2002

Joint Statement of Answer filed by Respondents Wachovia Securities, LLC and Jeffrey M. Daft:  
November 12, 2002

Respondent Wachovia Securities, LLC's Uniform Submission Agreement signed: November 11,  
2002

Respondent Jeffrey M. Daft's Uniform Submission Agreement signed: November 11, 2002

### **CASE SUMMARY**

Claimant alleged that Respondents recommended unsuitable investments and investment strategies in common stocks, misrepresented and omitted material facts, committed fraud, breached their fiduciary duties, mismanaged Claimant's account, and failed to supervise Mr. Daft. Claimant's dispute involved investments in various securities, including but not limited to, investments in Lucent Technologies, Inc., Siebel Systems, Inc., Cisco Systems, Inc., UTS Energy Corp. and Wind River Systems, Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim, requested that all claims be dismissed with prejudice, and requested that all references to this action be ordered expunged from their CRD records.

### **RELIEF REQUESTED**

Claimant requested \$181,000.00 in compensatory damages, disgorgement of profits and commissions, all other compensatory damages according to proof, plus interest thereon at the legal rate, costs, expenses, and disbursements, punitive damages in an unspecified sum, attorney's fees and such other relief as the Panel may deem just and proper.

Respondents requested that all claims be dismissed with prejudice, and that all references to this action be ordered expunged from their CRD records.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **STIPULATION**

It is hereby stipulated by Claimant and Respondents, through their undersigned attorneys of record, that:

1. All of Claimant's claims in the above-captioned action are dismissed, with prejudice.
2. Pursuant to the stipulation of the Parties, all forum fees incurred on or after September 7, 2005, shall be satisfied by Respondents. Otherwise, all forum fees incurred before September 7, 2005, shall be divided with 50% being paid by Claimant, and 50% being paid jointly and severally by Respondents.

3. Claimant and Respondents jointly recommend that the Panel render the following award:

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jeffrey M. Daft's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, said Respondent must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. This order of expungement is appropriate, since NASD Notice to Members 04-16 provides that the new requirements for seeking expungement under Rule 2130 do not apply to cases such as this filed before April 12, 2004.

### **AWARD**

After considering the preceding Stipulation of the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All of Claimant's claims in the above-captioned action are dismissed, with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jeffrey M. Daft's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Jeffrey M. Daft must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. This order of expungement is appropriate, since NASD Notice to Members 04-16 provides that the new requirements for seeking expungement under Rule 2130 do not apply to cases such as this filed before April 12, 2004.
3. Each party shall bear its own costs, including attorney's fees.
4. All other relief 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	= \$	300.00
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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 firm Wachovia Securities, LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
<u>Pre-Hearing Process Fee</u>	= \$ 750.00
<b>Total Member Fees</b>	<b>= \$ 2,450.00</b>

**Forum Fees and Assessments**

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$1,125.00  
Pre-hearing conference: May 15, 2006 1 session

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**Total Forum Fees** = **\$1,125.00**

The Panel assessed the \$1,125.00 in forum fees to Respondent Wachovia Securities, LLC.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less Payments</u>	= \$( 1,425.00)
<b>Refund Due Claimant</b>	<b>= \$( 1,125.00)</b>

2. Respondent Wachovia Securities, LLC is charged with the following fees and costs:

Member Fees	= \$ 2,450.00
<u>Forum Fees</u>	= \$ 1,125.00
Total Fees	= \$ 3,575.00
<u>Less Payments</u>	= \$( 2,450.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,125.00</b>

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

**Parties' Signatures**

Dated: 5-30-06



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Mitchell S. Ostwald, Esq.  
Law Offices of Mitchell S. Ostwald  
Attorneys for Claimant Virginia L. Jang

Dated: \_\_\_\_\_

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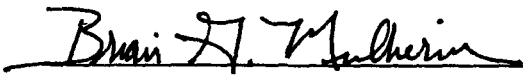
Brian G. Mulherin, Esq.  
Jones, Bell, Abbott, Fleming & Fitzgerald  
L.L.P.  
Attorneys for Respondents Wachovia  
Securities, LLC and Jeffrey M. Daft

**Parties' Signatures**

Dated: \_\_\_\_\_

\_\_\_\_\_  
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Attorneys for Claimant Virginia L. Jang

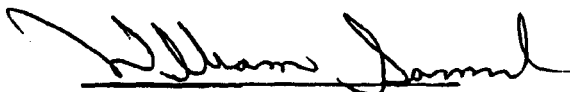
Dated: 5/23/06

  
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Brian G. Mulherin, Esq.  
Jones, Bell, Abbott, Fleming & Fitzgerald  
L.L.P.  
Attorneys for Respondents Wachovia  
Securities, LLC and Jeffrey M. Daft

**ARBITRATION PANEL**

William Michael Samsel	-	Public Arbitrator, Presiding Chair
Mark R. Harris	-	Public Arbitrator
Anita Paula Max, J.D.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



William Michael Samsel  
Chair, Public Arbitrator

6/12/06

Signature Date

\_\_\_\_\_  
Mark R. Harris  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Anita Paula Max, J.D.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

6/27/06

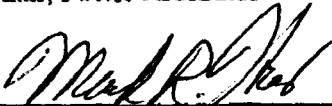
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Date of Service

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Mark R. Harris	-	Public Arbitrator
Anita Paula Max, J.D.	-	Non-Public Arbitrator

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\_\_\_\_\_  
William Michael Samsel  
Chair, Public Arbitrator

  
\_\_\_\_\_  
Mark R. Harris  
Public Arbitrator

\_\_\_\_\_  
Signature Date

6-10-06  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Anita Paula Max, J.D.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

6/27/06  
\_\_\_\_\_  
Date of Service



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Mark R. Harris	-	Public Arbitrator
Anita Paula Max, J.D.	-	Non-Public Arbitrator

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Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Mark R. Harris  
Public Arbitrator

\_\_\_\_\_  
Signature Date

Anita Paula Max  
Anita Paula Max, J.D.  
Non-Public Arbitrator

6/26/06  
Signature Date

6/27/06  
Date of Service