

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mary Elizabeth Brunson and Barbara Jane Duncan, Claimants v. Wachovia Securities, LLC fka First Union Securities, Inc. and Gary T. Holmquist, Respondents

Case Number: 02-06786

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

John K. Duncan, Esq.
Long Beach, California

For Respondents:

Brian A. Carlis, Esq.
Stark & Stark
Lawrenceville, New Jersey

CASE INFORMATION

Statement of Claim filed: November 8, 2002

Claimants' Joint Uniform Submission Agreement signed: November 7, 2002

Joint Statement of Answer and Motion to Dismiss filed by Respondents: January 13, 2003

Respondent Wachovia Securities, LLC fka First Union Securities, Inc.'s Uniform Submission Agreement signed: December 6, 2002

Respondent Gary T. Holmquist's Uniform Submission Agreement signed: January 9, 2003

CASE SUMMARY

Claimants alleged churning, unsuitability, failure to supervise, breach of fiduciary duty, negligence, misrepresentations, and omission of facts, involving various unspecified securities.

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

RELIEF REQUESTED

Claimant Mary Elizabeth Brunson requested \$990,193.35 in compensatory damages, \$2,000,000.00 in punitive damages, and \$198,344.05 in reimbursement for lost interest. Claimant Barbara Jane Duncan requested \$1,291,103.00 in actual damages, \$2,600,000.00 in punitive damages, and \$229,835.37 in reimbursement for lost interest.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On February 6, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 14, 2003, Respondents Wachovia Securities, LLC fka First Union Securities, Inc. and Gary T. Holmquist's counsel signed a Waiver Agreement on their behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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 Wachovia Securities, LLC fka First Union Securities, Inc. and Gary T. Holmquist are jointly and severally liable to and shall pay Claimant Mary Elizabeth Brunson the sum of \$147,655.22 in compensatory damages.
- 2) Respondents Wachovia Securities, LLC fka First Union Securities, Inc. and Gary T. Holmquist are jointly and severally liable to and shall pay Claimant Barbara Jane Duncan the sum of \$272,839.72 in compensatory damages.
- 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	= \$ 600.00
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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 fka First Union Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 3,350.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,500.00</u>
Total Member Fees	= \$ 9,600.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: May 22, 2003	1 session
8 Hearing sessions @ \$1,200.00/session	= \$ 9,600.00
Hearings: September 7, 2004	2 sessions
September 8, 2004	2 sessions
September 9, 2004	2 sessions
September 10, 2004	2 sessions

Total Forum Fees	= \$10,800.00
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1. The Panel assessed \$ 5,400.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 5,400.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 5,400.00
Total Fees	= \$ 6,000.00
Less payments	= \$(1,800.00)
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

Member Fees	= \$ 9,600.00
Less payments	= \$(9,600.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 5,400.00
Less payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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

Jeanne E. Irving, Esq.

Susan Vernon Wood, Esq.

Larry Hangaard

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jeanne E. Irving, Esq.
Chair, Public Arbitrator


Signature Date

Susan Vernon Wood, Esq.
Public Arbitrator

Signature Date

Larry Hangaard
Non-Public Arbitrator

Signature Date

9/15/04
Date of Service

ARBITRATION PANEL

Jeanne E. Irving, Esq.	-	Public Arbitrator, Presiding Chair
Susan Vernon Wood, Esq.	-	Public Arbitrator
Larry Hangaard	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jeanne E. Irving, Esq.
Chair, Public Arbitrator

Signature Date

Susan Vernon Wood
Susan Vernon Wood, Esq.
Public Arbitrator

September 15, 2004
Signature Date

Larry Hangaard
Non-Public Arbitrator

Signature Date

9/15/04
Date of Service

ARBITRATION PANEL

Jeanne E. Irving, Esq.	-	Public Arbitrator, Presiding Chair
Susan Vernon Wood, Esq.	-	Public Arbitrator
Larry Haugaard	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jeanne E. Irving, Esq.
Chair, Public Arbitrator

Signature Date

Susan Vernon Wood, Esq.
Public Arbitrator

Signature Date



Larry Haugaard
Non-Public Arbitrator

9-16-04

Signature Date

9/16/04

Date of Service