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

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In the Matter of the Arbitration Between:

Name of the Claimant

John G. DeBoer, individually,  
and as Trustee of the John G. DeBoer Trust  
U/A Dated 12/17/80,  
and as General Partner of the J. DeBoer  
Family Limited Partnership

Case Number: 02-07178

Name of the Respondent

Wachovia Securities, L.L.C.

Hearing Site: Tampa, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For John G. DeBoer, individually, and as Trustee of the John G. DeBoer Trust U/A Dated 12/17/80, and as General Partner of the J. DeBoer Family Limited Partnership, hereinafter collectively referred to as "Claimant": Christopher T. Vernon, Esq., and Richard Mancini, Esq., Treiser, Collins & Vernon, Naples, Florida.

For Wachovia Securities, L.L.C., hereinafter referred to as "Respondent": Ronald P. Kane, Esq., Kane and Fischer, Ltd., Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: November 25, 2002.

Claimant signed the Uniform Submission Agreement: November 22, 2002.

Statement of Answer filed by Respondent on or about: March 3, 2003.

Respondent signed the Uniform Submission Agreement: December 17, 2002.

**CASE SUMMARY**

Claimant asserted the following causes of action: violations of First Union's internal rules and the rules of the self-regulatory organizations of which Respondent is a member; sale and maintenance of unsuitable securities; over-concentration in unsuitable securities; breach of fiduciary duty; improper margin; penny stock violations; stock manipulation; omission and misrepresentation of material facts; fraud; fraudulent concealment and inducement; grossly negligent and reckless hiring, retention, supervision, compliance, and training by First Union with respect to an employee; and violations of common law and statutory law. The causes of action relate to the purchase and sale of shares of stocks in Cornerstone Internet Solutions, Laser Photonics, Howtek, and Copytele in Claimant's accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested in his Statement of Claim statutory damages in the amount of \$10,540,140.76, costs of \$35,000, interest, punitive damages, a disciplinary referral, and attorneys' fees under Florida Statute Chapter 517.

Respondent requested dismissal of the Statement of Claim in its entirety, a judgment issued in its favor, and an award of all costs of defense, including reasonable attorneys' fees and forum fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

At the evidentiary hearing Claimant requested statutory damages in the amount of \$10,540,140.76, and alleged alternative theories of damages in the amount of \$6,070,956.72 and greater.

The parties in this matter have agreed that the Award may be entered in counterpart copies or that a signed, handwritten Award may be entered.

**AWARD**

After considering the pleadings, the testimony, and evidence presented at the hearings, the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claims of suitability and supervision under Florida Statutes Chapter 517, including Florida Statute 517.301, and shall pay to Claimant compensatory damages in the amount of \$2,657,341.00, plus interest at the Florida statutory rate accruing from June 23, 2004 until the Award is paid.

Respondent is liable and shall pay to Claimant costs in the amount of \$35,000.00

Respondent is liable and shall pay to Claimant \$250.00 representing reimbursement of the claim filing fee paid by Claimant to NASD Dispute Resolution.

The Panel defers the issue of attorneys' fees for determination by a court of competent jurisdiction.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 250.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to dispute. Accordingly, Respondent is a member firm and a party:

Member surcharge = \$ 1,500.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,200.00

Total Member Fees = \$ 4,450.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were assessed during these proceedings.

#### **Forum Fees and Assessments**

The Panel 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 hours or less.

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: April 27, 2004 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00 = \$ 2,000.00

Pre-hearing conferences: July 11, 2003 1 session

May 8, 2003 1 session

Fourteen (14) Hearing sessions with the Panel @ \$1,000.00 = \$14,000.00

|                   |               |            |
|-------------------|---------------|------------|
| Hearing sessions: | June 15, 2004 | 2 sessions |
|                   | June 16, 2004 | 2 sessions |
|                   | June 17, 2004 | 2 sessions |
|                   | June 18, 2004 | 2 sessions |
|                   | June 21, 2004 | 2 sessions |
|                   | June 22, 2004 | 2 sessions |
|                   | June 23, 2004 | 2 sessions |

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Total Forum Fees = \$16,450.00

The Panel has assessed \$16,450.00 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are 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.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

|  |             |
|--|-------------|
| <u>Initial Filing Fee</u>                  | = \$ 250.00 |
| <u>Total Fees</u>                          | = \$ 250.00 |
| <u>Less payments</u>                       | = \$ 250.00 |
| <u>Balance Due NASD Dispute Resolution</u> | = \$ 0.00   |

Respondent is liable for:

|  |               |
|--|---------------|
| <u>Member Fees</u>                         | = \$ 4,450.00 |
| <u>Forum Fees</u>                          | = \$16,450.00 |
| <u>Total Fees</u>                          | = \$20,900.00 |
| <u>Less payments</u>                       | = \$ 2,250.00 |
| <u>Balance Due NASD Dispute Resolution</u> | = \$18,650.00 |

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

**ARBITRATION PANEL**

|                             |   |  |
|-----------------------------|---|--|
| Horace A. Andrews           | - | Public Arbitrator, Presiding Chairperson |
| Geoffrey Paul Nuckolls, CPA | - | Public Arbitrator                        |
| Deborah J. Powell           | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

/s/  
Horace A. Andrews  
Public Arbitrator, Presiding Chairperson

July 8, 2004  
Signature Date

/s/  
Geoffrey Paul Nuckolls, CPA  
Public Arbitrator

July 8, 2004  
Signature Date

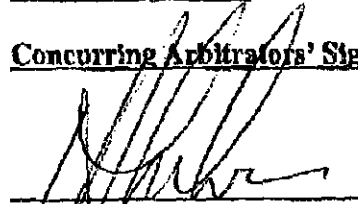
/s/  
Deborah J. Powell  
Non-Public Arbitrator

July 8, 2004  
Signature Date

July 8, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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Arbitration No. 02-07178  
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Concurring Arbitrators' Signatures



Horace A. Andrews  
Public Arbitrator, Presiding Chairperson

7/8/04  
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Geoffrey Paul Nuckolls, CPA  
Public Arbitrator

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Deborah J. Powell  
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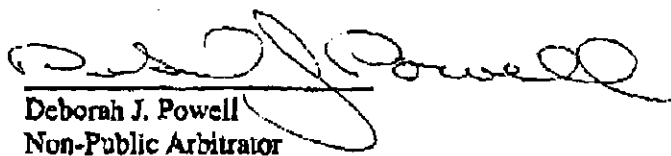
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