

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Wachovia Securities, Inc.
f/k/a First Union Securities, Inc.
and Anthony Lapia,

Case Number: 02-07435

Claimants,

vs.

William A. Stephens, Jr.,

Hearing Site: Houston, Texas

Respondent.

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

REPRESENTATION OF PARTIES

Claimants, Wachovia Securities, Inc. f/k/a First Union Securities, Inc. and Anthony Lapia, hereinafter referred to as "Claimants," were represented by Mark C. Shuford, Esq. and Cameron S. Matheson, Esq. of LeClair Ryan located in Richmond, Virginia.

Respondent, William A. Stephens, Jr., hereinafter referred to as "Respondent," was represented by Kirk G. Smith, Esq. of Shepherd, Smith & Bebel, PC located in Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about December 11, 2002.

The Claimants signed the Uniform Submission Agreement on or about December 8, 2002.

The Statement of Answer was filed on or about January 10, 2003.

The Respondent signed the Uniform Submission Agreement on or about January 1, 2003.

Respondent's Motion to Dismiss was filed on or about June 3, 2003. Claimants' Response was filed on or about July 1, 2003. Respondent's Reply was filed on or about June 27, 2003.

CASE SUMMARY

In the fall of 2001, William and Kathryn Stephens filed an arbitration claim against Claimants in the present matter. After the hearings were concluded, the Stephens received an award of approximately \$400,000 from the arbitration panel. Thereafter, First Union Securities, Inc., now

known as Wachovia Securities Inc., filed a motion to vacate which was ultimately unsuccessful.

In the present matter, Claimants alleged that Respondent knowingly directed the investment strategy about which his wife brought a claim against First Union Securities, Inc. and its employee, Anthony Lapia. Claimants asserted that all the activity in Ms. Stephens' account occurred at the direction and with the full knowledge of Respondent, as First Union had no discretionary authority over any of the accounts. Claimants contended that Respondent was liable for the damages awarded to Kathryn Stephens from First Union under the principals of indemnification and contribution.

Respondent claimed that Claimants were improperly trying to hold him responsible for the award that was rendered in the underlying original arbitration. Respondent contended that every issue in the present claim was also alleged by First Union at the hearing of the underlying matter and pled by First Union in the original answer. Respondent alleged that the instant claim was "an obvious attempt to harass the Stephens, and as an attempt to re-arbitrate the same issues in the hope of getting a second bite at the apple."

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

Compensatory Damages:	\$407,567.67
Interest:	Unspecified
Attorneys' Fees:	Unspecified
Costs:	Unspecified
Other:	Unspecified

In the Statement of Answer, Respondent requested a dismissal of the claim prior to the hearing, as well as an award of his costs and attorney fees, and that Claimants be sanctioned for their bad faith and baseless claims.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent's Motion for Dismissal was denied without prejudice prior to the hearing on the merits.

Respondent moved for Rule 11 Sanctions orally at the conclusion of the evidentiary hearing on November 4, 2003. The Panel allowed post-hearing submissions to be filed by the parties regarding this Motion. After reviewing the post-hearing submissions, the Panel granted Respondent's Motion and awarded attorney's fees and costs to the Respondent.

The parties agree that the award in this matter may be executed in counterpart copies or that a handwritten, signed award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc.

AWARD

After considering the pleadings and the testimony and evidence presented at the hearing and the post-hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
2. Claimants, Wachovia Securities, Inc. f/k/a First Union Securities, Inc. and Anthony Lapia, are jointly and severally liable for and shall pay to Respondent, William A. Stephens, Jr., the sum of \$20,000 in attorneys fees pursuant to Texas statute;
3. Claimants, Claimants Wachovia Securities, Inc. f/k/a First Union Securities, Inc. and Anthony Lapia, are jointly and severally liable for and shall pay to Respondent William A. Stephens, Jr., the sum of \$2,500 in costs; and
4. Any and all relief not specifically granted herein, including punitive damages, is denied with prejudice.

FEES

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	= \$ 1000.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is Wachovia Securities, Inc. f/k/a First Union Securities, Inc.

Member surcharge	= \$ 1700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2750.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$ 1,125.00
 Pre-hearing conference: June 17, 2003

Two (2) hearing sessions with Panel @ \$1,125 = \$ 2,250.00
 Hearing sessions: November 4, 2003

Total Forum Fees = \$ 3,375.00

The Panel has assessed all forum fees jointly and severally to Claimants Wachovia Securities, Inc. f/k/a First Union Securities, Inc. and Anthony Lapia, in the amount of \$3,375.00

FEE SUMMARY

Claimants Wachovia Securities, Inc. f/k/a First Union Securities, Inc. and Anthony Lapia are jointly and severally liable for:

Initial Filing Fee	= \$ 1,000.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 4,375.00
Less payments	= \$ 2,125.00
Balance Due	= \$ 2,250.00

Claimant Wachovia Securities, Inc. f/k/a First Union Securities, Inc. is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due	= \$ 0.00

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

ARBITRATION PANEL

William S. Hopkins - Public Arbitrator, Presiding Chairperson

Daniel J. Pagnano, Esq. - Public Arbitrator

Teresa A. Oxford, J.D. - Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ William S. Hopkins
William S. Hopkins
Public Arbitrator, Presiding Chairperson

January 15, 2004
Signature Date

/s/ Daniel J. Pagnano, Esq.
Daniel J. Pagnano, Esq.
Public Arbitrator

January 15, 2004
Signature Date

/s/ Teresa A. Oxford, J.D.
Teresa A. Oxford, J.D.
Non-Public Arbitrator

January 15, 2004
Signature Date

January 15, 2004
Date of Service (For NASD Dispute Resolution use only)

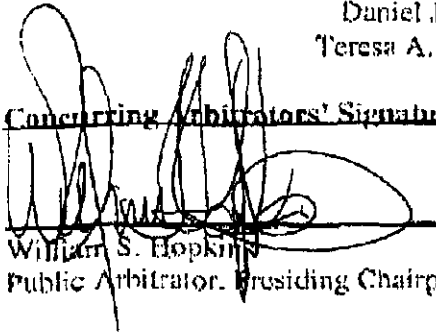
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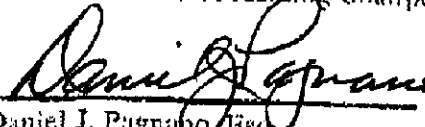
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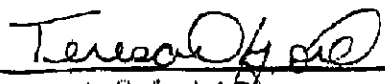
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