

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

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In the Matter of the Arbitration Between:

Carrie Butler IRA, Claimant vs. Wachovia Securities, LLC and Stephen W. Wilson, Respondents

Case Number: 03-00547

Hearing Site: Los Angeles, California

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

**REPRESENTATION OF PARTIES**

For Claimant:

Carrie Butler  
In Propria Persona  
Sylmar, California

For Respondents:

Michael J. Abbott, Esq.  
Robert J. Girard II, Esq.  
Jones Bell Abbott Fleming &  
Fitzgerald  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: January 22, 2003

Claimant's Uniform Submission Agreement signed: February 10, 2003

Joint Statement of Answer filed by Respondents: April 29, 2003

Respondent Wachovia Securities, LLC's Uniform Submission Agreement signed: April 25, 2003

Respondent Stephen W. Wilson's Uniform Submission Agreement signed: April 24, 2003

### **CASE SUMMARY**

Claimant alleged breach of contract, breach of fiduciary duty, unsuitability, misrepresentation, non-disclosure, switching, and failure to supervise. Claimant's allegations involved the purchase and sale of B shares in unspecified mutual funds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested unspecified damages.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

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

On April 24, 2003, Claimant 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 July 1, 2003, Respondents' counsel signed a Waiver Agreement on Respondents' 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) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Stephen W. Wilson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Stephen W. Wilson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 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 of Arbitration Procedure (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	= \$ 250.00
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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	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,200.00</u>
<b>Total Member Fees</b>	<b>= \$4,450.00</b>

#### **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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,000.00/session	= \$1,000.00
Pre-hearing conference: July 10, 2003 1 session	
Three (3) Hearing sessions @ \$1,000.00/session	= \$3,000.00
Hearings: May 11, 2004 2 sessions	
May 12, 2004 1 session	
<b>Total Forum Fees</b>	<b>= \$4,000.00</b>

1. The Panel assessed \$1,000.00 of the forum fees to Claimant.
2. The Panel assessed \$3,000.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

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

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$ 1,000.00</u>
Total Fees	= \$ 1,250.00
<u>Less payments</u>	<u>=(1,575.00)</u>
<b>Refund Due Claimant</b>	<b>= \$ (325.00)</b>
  
2. Respondent Wachovia Securities, LLC is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
<u>Less payments</u>	<u>=(4,450.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
  
3. Respondents Wachovia Securities, LLC and Stephen W. Wilson are charged jointly and severally with the following fees and costs:

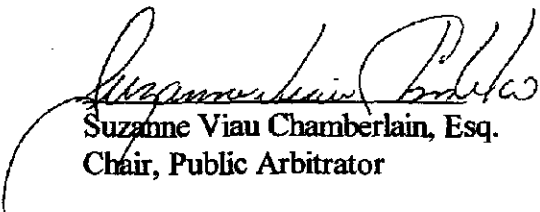
Forum Fees	= \$3,000.00
<u>Less payment by Wachovia Securities, LLC</u>	<u>=(2,550.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 450.00</b>

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**

<i>Suzanne Viau Chamberlain, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Ronald E. Malmfeldt</i>	-	<i>Public Arbitrator</i>
<i>Carl Van Winkle</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

  
Suzanne Viau Chamberlain, Esq.  
Chair, Public Arbitrator


  
Signature Date

  
Ronald E. Malmfeldt  
Public Arbitrator

  
Signature Date

  
Carl Van Winkle  
Non-Public Arbitrator

  
Signature Date

  
Date of Service