

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael & Katrina Rooney, Caitlin Rooney UTMA, Shannon Rooney UTMA, and Michael Rooney, Jr. UTMA, Claimants v. Wachovia Securities, LLC, Bruce E. Wiegand, and Morton S. Rudin, Respondents

Case Number: 03-00704

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimants:

Bruce D. Oakes, Esq.
Oakes & Fosher, LLC
St. Louis, Missouri

For Respondents:

William M. Turner, Esq.
Jones Bell Abbott Fleming & Fitzgerald
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 29, 2003

First Amended Statement of Claim filed: November 21, 2003

Claimants' Joint Uniform Submission Agreement signed: February 11, 2003

Joint Statement of Answer filed by Respondents: April 21, 2003

Joint Statement of Answer to Claimants' First Amended Statement of Claim filed by Respondents:
January 12, 2004

Respondent Wachovia Securities, LLC's Uniform Submission Agreement signed: March 19, 2003

Respondent Bruce E. Wiegand's Uniform Submission Agreement signed: undated

Respondent Morton S. Rudin's Uniform Submission Agreement signed: July 21, 2003

CASE SUMMARY

In the Statement of Claim and First Amended Statement of Claim, Claimants alleged fraud, breach of fiduciary duty, restitution, negligent supervision, violation of section 10(b) of the SEC Act of 1934, and violation of California Corporate Code 25216 and 25401, involving unspecified mutual funds.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested \$669,029.75 in compensatory damages, \$100,000,000.00 in punitive damages, interest, and costs, including attorney's fees. Claimants further requested that the case be referred to the NASD, the NYSE, the SEC and California's Securities Commission for disciplinary action.

In the First Amended Statement of Claim, Claimants increased their request for compensatory damages to \$1,099,408.39.

Respondents requested dismissal of the Claimants' Statements of Claim in their entirety. Respondents Bruce E. Wiegand and Morton S. Rudin requested expungement of all reference to the arbitration from their registration records maintained by CRD.

OTHER ISSUES CONSIDERED AND DECIDED

On November 21, 2003, Claimants filed a Motion to File First Amend Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). The Panel granted the motion on December 9, 2003.

On February 24, 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.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

In their Arbitration Brief and Answer to Claimants' First Amended Statement of Claim, Respondents made an assertion that Illinois law was controlling as to punitive damages. On September 29, 2004, Claimants filed a Memorandum Regarding Respondents' Assertions That Illinois Law Applies to This Case, and That The Arbitration Panel is Limited in the Amount of Punitive Damages That It Can Award Claimants. On October 14, 2004, Respondents submitted an Opposition to Claimants' Brief Re Punitive Damages. After hearing oral argument on the matter and due deliberation, the Panel denied Respondents' assertion.

On February 3, 2004, Claimants filed a Motion for Adverse Inference for Documents Not Produced By Respondents. On February 5, 2004, Respondents filed an Opposition to Claimants' Motion For Adverse Inference. After due deliberation, the Panel denied Claimants' Motion for Adverse Inference.

On October 14, 2004, Respondents filed a Motion For An Order Requiring Claimants' Attorney, Bruce Oakes, To Retract His Misrepresentations To The NYSE and To The Arbitration Panel. On October 18, 2004, Claimants filed a Response To Respondents' Motion For An Order Requiring Claimants' Attorney To Retract His Statement To The NYSE and This Panel Regarding Respondents' Statement That The NYSE "Took No Action" With Regard To Its Investigation of Respondents. After due deliberation, the Panel ruled that Claimant must write a clarifying letter to the NYSE using actual quotes by the Respondents' counsel taken from the February hearing transcript.

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, Bruce E. Wiegand, and Morton S. Rudin are jointly and severally liable to and shall pay Claimants the sum of \$188,944.04 in compensatory damages.
- 2) Respondents Wachovia Securities, LLC, Bruce E. Wiegand, and Morton S. Rudin are jointly and severally liable to and shall pay Claimants the sum of \$377,988.08 in punitive damages pursuant to California Civil Code section 3294.
- 3) Respondents Bruce E. Wiegand and Morton S. Rudin's request for expungement is denied.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) 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 is a party and the following fees are assessed:

Member Surcharge	= \$ 3,750.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,500.00
Total Member Fees	= \$10,000.00

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 Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: September 29, 2003 1 session	
3 Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
Pre-hearing conferences: August 8, 2003 1 session	
March 25, 2004 1 session	
September 27, 2004 1 session	
26 Hearing sessions @ \$1,200.00/session	= \$31,200.00
Hearings: February 9, 2004 2 sessions	
February 10, 2004 2 sessions	
February 11, 2004 2 sessions	
February 12, 2004 2 sessions	
February 13, 2004 2 sessions	
November 1, 2004 2 sessions	
November 2, 2004 2 sessions	
November 3, 2004 2 sessions	
November 4, 2004 2 sessions	
November 5, 2004 2 sessions	
November 8, 2004 2 sessions	
November 9, 2004 2 sessions	
November 10, 2004 2 sessions	

Total Forum Fees	= \$35,250.00
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The Panel assessed \$ 35,250.00 of the forum fees jointly and severally to Respondents Wachovia Securities, LLC, Bruce E. Wiegand, and Morton S. Rudin.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested:

February 10, 2004 -	180 photocopies @ \$0.50 each	= \$	90.00
July 27, 2004 -	copies of 19 audio transcripts @ \$15.00 each	= \$	285.00
November 8, 2004 -	235 photocopies @ \$0.50 each	= \$	117.50
Total Administrative Costs		= \$	492.50

Respondents requested:

July 12, 2004 -	copies of 19 audio transcripts @ \$15.00 each	= \$	285.00
November 9, 2004 -	25 photocopies @ \$0.50 each	= \$	12.50
Total Administrative Costs		= \$	297.50

Fee Summary

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

Initial Filing Fee	= \$	600.00
Administrative Costs	= \$	492.50
Total Fees	= \$	1,092.50
Less payments	= \$(2,085.00)
Refund Due Claimants	= \$(992.50)

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

Member Fees	= \$	10,000.00
Less payments	= \$(10,000.00)
Balance Due NASD Dispute Resolution	= \$	0.00

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

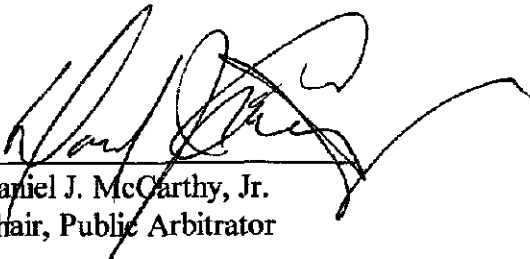
Forum Fees	= \$	35,250.00
Administrative Costs	= \$	297.50
Total Fees	= \$	35,547.50
Less payments	= \$(285.00)
Balance Due NASD Dispute Resolution	= \$	35,262.50

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.

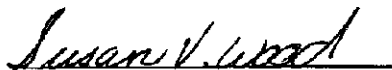
ARBITRATION PANEL

Daniel J. McCarthy, Jr.	-	Public Arbitrator, Presiding Chair
Susan Vernon Wood, Esq.	-	Public Arbitrator
Sharon Clanton, CFP	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures


Daniel J. McCarthy, Jr.
Chair, Public Arbitrator

11/12/04
Signature Date


Susan Vernon Wood, Esq.
Public Arbitrator

11/10/04
Signature Date


Sharon Clanton, CFP
Non-Public Arbitrator

11-10-04
Signature Date

11/18/04
Date of Service