

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Paul and Nancy Klein Family Trust, Claimant v. Wachovia Securities, LLC and Gary S. Ritzman, Respondents

Case Number: 03-00948

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Stuart L. Leviton, Esq.
Levinson, Kaplan, Arshonshy
& Kurtz, A.P.C.
Encino, California

For Respondent:

Michael Abbott, Esq.
Jones, Bell, Abbott, Fleming
& Fitzgerald
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 7, 2003

Claimant's Uniform Submission Agreement signed: February 7, 2003

Joint Statement of Answer filed by Respondents Wachovia Securities, LLC and Gary S. Ritzman: May 12, 2003

Respondent Wachovia Securities, LLC's Uniform Submission Agreement signed: May 13, 2003

Respondent Gary S. Ritzman Uniform Submission Agreement signed: May 13, 2003

CASE SUMMARY

Claimant alleged breach of contract, fraud, breach of fiduciary duty and negligence. Claimant's allegations involved securities of Philip Morris, Cell Pathways, Verio Inc., Patriot Scientific, On-point Tech. and E-Digital Corp.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of

Claim.

RELIEF REQUESTED

Claimant requested \$1,000,000.00 in compensatory damages, \$1,000,000.00 in punitive damages, unspecified exemplary damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, costs and an order expunging all reference to the above captioned arbitration from Respondent Gary S. Ritzman's registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

On March 28, 2003, Claimant and on March 25, 2003 Claimant's 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 Claimant 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.

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) Claimant is liable to and shall pay Respondent the sum of \$12,000.00 as reimbursement for Respondents' costs for expert witness Jay Rosen.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Gary S. Ritzman's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Gary S. Ritzman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) The parties shall bear their respective attorney's fees.

5) 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	= \$ 500.00
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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	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

Adjournment Fees

The following adjournment fees are assessed:

December 15, 2003 - December 19, 2003 hearing dates adjournment requested by Respondents Wachovia Securities, LLC and Gary S. Ritzman	= \$ 1,200.00
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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 that lasts four (4) hours or less between the parties and the Chair or between the parties and the Panel. The following fees are assessed:

2 Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences:	
November 5, 2003 1 session	
November 21, 2003 1 session	
3 Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
Pre-hearing conferences:	
July 10, 2003 1 session	
August 1, 2003 1 session	

November 24, 2003 1 session
6 Hearing sessions @ \$1,200.00/session = \$ 7,200.00

Hearings: March 1, 2004 2 sessions
March 2, 2004 2 sessions
March 3, 2004 2 sessions

Total Forum Fees = \$11,700.00

The Panel assessed \$11,700.00 of the forum fees to Claimant.

Fee Summary

1. Claimant The Paul and Nancy Klein Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$11,700.00
Total Fees	= \$12,200.00
Less payments	= \$ (1,700.00)
Balance Due NASD Dispute Resolution	= \$10,500.00

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

Member Fees	= \$ 8,550.00
Less payments	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents Wachovia Securities, LLC and Gary S. Ritzman are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 1,200.00
Less payments by Wachovia	= \$(1,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

<i>Lisa C. Anderson, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Cathleen M. Cobb</i>	-	<i>Public Arbitrator</i>
<i>Charles A. Graham</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Lisa C. Anderson, Esq.
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

Charles A. Graham
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

<i>Lisa C. Anderson, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Cathleen M. Cobb</i>	-	<i>Public Arbitrator</i>
<i>Charles A. Graham</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Lisa C. Anderson, Esq.
Chair, Public Arbitrator

3-18-04
Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

Charles A. Graham
Non-Public Arbitrator

Signature Date

ARBITRATION PANEL

Lisa C. Anderson, Esq.
Cathleen M. Cobb
Charles A. Graham

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lisa C. Anderson, Esq.
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb

Cathleen M. Cobb
Public Arbitrator

March 15, 2004

Signature Date

Charles A. Graham
Non-Public Arbitrator

Signature Date

3/17/04

Date of Service