

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

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In the Matter of the Arbitration Between:

Dr. Edward R. Bloomquist and Lila Mae Bloomquist, Claimants v. Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc., Wachovia Securities, LLC f.k.a. First Union Securities, Inc., and Brian Henderson, Respondents

Case Number: 03-01352

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customers v. Members and Associated Person

**REPRESENTATION OF PARTIES**

For Claimants:

Gordon I. Yanz, Esq.  
Law Offices of Yanz & Hertz  
Glendale, California

For Respondent Piper Jaffray & Co. f.k.a.  
U.S. Bancorp Piper Jaffray, Inc.:

Neal S. Robb, Esq.  
Keesal, Young & Logan  
Long Beach, California

For Respondents Wachovia Securities, LLC f.k.a.  
First Union Securities, Inc. and Brian Henderson:

Michael J. Abbott, Esq.  
Jennifer Z. Morris, Esq.  
Jones, Bell, Abbott, Fleming &  
Fitzgerald L.L.P.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: February 19, 2003

Amended Claim Information Sheet filed: October 23, 2003

Claimants' Joint Uniform Submission Agreement signed: February 11, 2004

Statement of Answer filed by Respondents Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. and Brian Henderson: July 25, 2003

Statement of Answer and Motion to Dismiss filed by Respondents Wachovia Securities, LLC f.k.a. First Union Securities, Inc. and Brian Henderson: July 25, 2003

Respondent Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc.'s Uniform Submission Agreement signed: April 23, 2003

Respondent Wachovia Securities, LLC f.k.a. First Union Securities, Inc.'s Uniform Submission Agreement signed: September 12, 2003

Respondent Brian Henderson's Uniform Submission Agreement signed: July 8, 2003

### **CASE SUMMARY**

Claimants alleged breach of fiduciary duty, misrepresentations, churning, manipulations, unauthorized trading, omissions, and unsuitability, involving unspecified securities.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested \$397,000.00 in compensatory damages, \$200,000.00 in punitive damages, \$124,250.00 in interest, costs, and attorney's fees.

In the Amended Claim Information Sheet, Claimants increased the amount requested to \$797,000.00 in compensatory damages, \$500,000.00 in punitive damages, \$124,250.00 in interest, \$1,425.00 in forum fees, and costs including attorney's fees.

Respondents Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. and Brian Henderson requested dismissal of the Claimants' Statement of Claim in its entirety.

Respondents Wachovia Securities, LLC f.k.a. First Union Securities, Inc. and Brian Henderson requested dismissal of the Claimants' Statement of Claim in its entirety and costs. Respondent Brian Henderson further requested expungement of this claim from his CRD record.

**OTHER ISSUES CONSIDERED AND DECIDED**

On May 20, 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.

On July 25, 2003, Respondents Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. and Brian Henderson's counsel signed a Waiver Agreement on their behalf 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.

On October 23, 2003, Claimants filed an Amended Claim Information Sheet increasing the actual and punitive damages requested. The Panel accepted the amendment pursuant to the NASD Code of Arbitration Procedure Rule 10328(b).

On April 6, 2004, Claimants dismissed with prejudice all claims against Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. and all claims against Respondent Brian Henderson arising out of, caused by, and/or relating to any acts, omissions, duties, obligations, advice, recommendations, disclosures, non-disclosures, representations, purchases, sales and/or investments that occurred or existed during the period of time the Claimants maintained accounts at Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. and/or in connection with their accounts and investments at Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc.

Arbitrator Kenneth E. Alexander did not appear at the first day of the evidentiary hearing on April 19, 2004. Mr. Alexander had previously served as Chair of the Arbitration Panel. On April 19, 2004, Claimants and Respondents Wachovia Securities, LLC f.k.a. First Union Securities, Inc. and Brian Henderson stipulated to have the matter heard by the remaining two arbitrators. The parties further stipulated to arbitrator James A. Bush, Esq. serving as Chair for the remainder of the arbitration.

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) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.
- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Brian Henderson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Brian Henderson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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	= \$ 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 Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. 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>	<u>= \$ 5,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

The member firm Wachovia Securities, LLC f.k.a. First Union Securities, Inc. is also a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 8,550.00</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/Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: October 29, 2003 1 session	
6 Hearing sessions @ \$1,200.00/session	= \$ 7,200.00
Hearings: April 19, 2004 2 sessions	
April 20, 2004 2 sessions	
April 21, 2004 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 8,400.00</b>

1. The Panel assessed \$ 4,200.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 4,200.00 of the forum fees jointly and severally to Respondents Wachovia Securities, LLC f.k.a. First Union Securities, Inc. and Brian Henderson.

#### **Fee Summary**

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

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
<u>Less payments</u>	<u>= \$( 2,075.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,625.00</b>
2. Respondent Piper Jaffray & Co. f.k.a. U.S. Bancorp Piper Jaffray, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,550.00</b>

3. Respondent Wachovia Securities, LLC f.k.a. First Union Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,550.00</b>

4. Respondents Wachovia Securities, LLC f.k.a. First Union Securities, Inc. and Brian Henderson are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,200.00
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,200.00</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**

James A. Bush, Esq.  
Alan M. Rosen

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Non-Public Arbitrator, Presiding Chair  
Public Arbitrator

**Concurring Arbitrators' Signatures**

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James A. Bush, Esq.  
Chair, Non-Public Arbitrator

5-11-04 see attached  
Signature Date

\_\_\_\_\_  
Alan M. Rosen  
Public Arbitrator

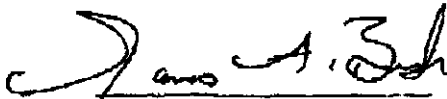
5-11-04 see attached  
Signature Date

5-11-04  
Date of Service

ARBITRATION PANEL

James A. Bush, Esq.	-	Non-Public Arbitrator, Presiding Chair
Alan M. Rosen	-	Public Arbitrator

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Public Arbitrator

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Alan M. Rosen

Non-Public Arbitrator, Presiding Chair  
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