

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Novinger Group, Inc.

Case Number: 03-01897

Names of the Respondents
Wachovia Securities, LLC
Hartford Insurance, Inc.
Richard Harper

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customer vs. Member, Non-Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant, Novinger Group, Inc., hereinafter referred to as "Claimant", was represented by Neil Warner Yahn, Esq. and Mathew Chabal, Esq., James, Smith, Dietterick & Connelly, LLP, Hummelstown, Pennsylvania.

Respondent, Wachovia Securities, LLC ("Wachovia") was represented by Kathryn S. Gostinger, Esq. and Adam Cole, Esq., Greenberg Traurig, LLP, New York, New York.

Respondent Hartford Insurance, Inc. did not appear at the hearing on the merits.

Respondent Richard Harper ("Harper") was represented by Renardo L. Hicks, Esq., Stevens & Lee, Harrisburg, Pennsylvania and Adam Cole, Esq., Greenberg Traurig, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on March 17, 2003.

Claimant signed the Uniform Submission Agreement on March 12, 2003.

Statement of Answer filed by Respondent Wachovia on July 23, 2003.

A representative of Respondent Wachovia executed the Uniform Submission Agreement on July 13, 2003.

Statement of Answer filed by Respondent Harper on July 23, 2003.

Respondent Harper signed the Uniform Submission Agreement on July 23, 2003.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action, among others: breach of duty of good faith, breach of duty of care of suitability, breach of duty to supervise, violation of state and federal laws, breach of fiduciary duties, and negligence. The causes of action relate to the purchase and sale of a variable insurance policy to Claimant.

Unless specifically admitted in the Statement of Answer, Respondent Wachovia denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, failure to mitigate damages, estoppel, ratification, authorization, waiver, contributory/comparative negligence, and Claimant does not have a private right of action.

Unless specifically admitted in his Statement of Answer, Respondent Harper denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$	100,000.00
Attorneys' Fees	\$	30,000.00

Respondent Wachovia requested that the Arbitration Panel (the "Panel") dismiss the Statement of Claim in its entirety and award it costs.

Respondent Harper requested that the Statement of Claim be dismissed with prejudice and that the Panel award him attorneys' fees in the amount of \$30,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Hartford Insurance, Inc. did not submit to the jurisdiction of NASD and thus did not participate or appear in the arbitration proceedings.

At the hearings on the merits, Respondents Wachovia and Harper made an oral Motion to Dismiss which the Panel denied.

At the hearings on the merits, Respondent Harper made an oral Motion for Expungement of all reference to this matter from the Central Registration Depository ("CRD") record of Respondent Harper. The Panel denied the motion.

At the close of presentation of evidence, Claimant requested that it be awarded an unspecified amount of interest.

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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Wachovia is liable to and shall pay to Claimant the sum of \$70,000.00 in compensatory damages, plus simple interest at a rate of 5% per annum accruing from the date of the award until the award is paid in full;
2. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein is denied in its entirety.

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	= \$ 225.00
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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 events giving rise to the dispute. Accordingly, Respondent Wachovia is a party.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

June 21-25, 2004, adjournment requested by Respondent Wachovia	= \$ 750.00
August 9-11, 2004, adjournment requested by Claimant	= \$ 750.00
September 19-21, 2005 and October 5-7, 2005, adjournment requested by Claimant	= \$ 1,500.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ 450.00	= \$ 450.00
Pre-hearing conference: May 3, 2004	

Two (2) Pre-hearing sessions with the Panel @ \$ 750.00	= \$ 1,500.00
Pre-hearing conferences: December 4, 2003 1 session	
December 1, 2005 1 session	

Seventeen (17) Hearing sessions @ \$,750.00 = \$ 12,750.00

Hearing Dates:	June 14, 2005	2 sessions
	June 15, 2005	2 sessions
	June 16, 2005	2 sessions
	May 1, 2006	2 sessions
	May 2, 2006	2 sessions
	May 3, 2006	2 sessions
	May 4, 2006	3 sessions
	May 5, 2006	2 sessions

Total Forum Fees = \$ 14,700.00

1. The Panel has assessed \$ 7,350.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 7,350.00 of the forum fees to Respondent Wachovia.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 225.00
Adjournment Fees	= \$ 2,250.00
<u>Forum Fees</u>	<u>= \$ 7,350.00</u>
Total Fees	= \$ 9,825.00
<u>Less payments</u>	<u>= \$ 1,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,375.00

2. Respondent Wachovia is assessed and shall pay:

Member Fees	= \$ 3,550.00
Adjournment Fees	= \$ 750.00
<u>Forum Fees</u>	<u>= \$ 7,350.00</u>
Total Fees	= \$ 11,650.00
<u>Less payments</u>	<u>= \$ 4,300.00</u>
Balance Due NASD Dispute Resolution	= \$ 7,350.00

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

ARBITRATION PANEL

William A. Kelley, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Charkovsky, Esq.	-	Public Arbitrator, Panelist
Michael Quarto	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

William A. Kelley, Jr.

William A. Kelley, Jr., Esq.
Public Arbitrator, Presiding Chairperson

May 9, 2006
Signature Date

Robert Charkovsky, Esq.
Public Arbitrator, Panelist

Signature Date

Michael Quarto
Non-Public Arbitrator, Panelist

Signature Date

May 9, 2006

Date of Service (For NASD Dispute Resolution office use only)

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Michael Quarto
Michael Quarto
Non-Public Arbitrator, Panelist

MAY 9TH 2006
Signature Date

May 9, 2006
Date of Service (For NASD Dispute Resolution office use only)