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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Wachovia Securities, Inc.

Case Number: 03-01911

Name of the Respondent  
Alan R. O'Kell

Hearing Site: Orlando, Florida

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

For Wachovia Securities, Inc. ("Wachovia"), hereinafter referred to as "Claimant": Jonathan E. Levine, Esq., Law Office of Daniel S. Fiore, Arlington, VA.

Respondent Alan R. O'Kell, hereinafter referred to as "Respondent", appeared pro se.

**CASE INFORMATION**

Statement of Claim filed on or about: March 18, 2003.

Claimant signed the Uniform Submission Agreement: March 17, 2003.

Statement of Answer filed by Respondent on or about: June 16, 2003.

Respondent signed the Uniform Submission Agreement: June 5, 2003.

**CASE SUMMARY**

Claimant asserted that Respondent breached the promissory note entered into by the parties and dated November 22, 2000.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$137,200.00, interest of \$13,230.06, interest accruing from the date of default until the date of payment, costs, attorneys' fees, and any other relief as the undersigned arbitrators (the "Panel") deemed just and equitable.

Respondent requested dismissal of the Statement of Claim.

**OTHER ISSUES CONSIDERED AND DECIDED**

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant compensatory damages in the sum of \$137,200.00 plus pre-judgment interest at the rate of 6% per annum accruing from July 8, 2002 until the date of payment of the Award.

Respondent is liable and shall pay to Claimant attorneys' fees and costs in amounts to be determined by a court of competent jurisdiction pursuant to the Wachovia Disclosure Statement and the promissory note.

Any and all claims for relief not specifically addressed herein are denied.

### FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$1,000.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Claimant is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

#### Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

**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 the Panel @ \$1,125.00 = \$1,125.00  
Pre-hearing conference: September 23, 2003 1 session

Two (2) Hearing sessions @ \$1,125.00 = \$2,250.00  
Hearing Date: April 20, 2004 2 sessions

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Total Forum Fees = \$3,375.00

The Panel has assessed the total forum fees of \$3,375.00 to Claimant.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 9,575.00
<u>Less payments</u>	<u>= \$ 7,325.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

**ARBITRATION PANEL**

Linda Fairchild	-	Non-Public Arbitrator, Presiding Chairperson
Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator
John Berryman	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Linda Fairchild  
Non-Public Arbitrator, Presiding Chairperson

Signature Date

/s/  
Heather D. Fitzenhagen, Esq.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

/s/  
John Berryman  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

April 27, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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NASD Dispute Resolution

Arbitration No. 03-01911

Award Page 3 of 4**Forum Fees and Assessments**

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Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator
John Berryman	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**


Linda Fairchild  
Non-Public Arbitrator, Presiding Chairperson

4-26-04  
Signature Date



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Heather D. Fitzenbaugh, Esq.  
Non-Public Arbitrator

4/22/04  
Signature Date

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John Berryman  
Non-Public Arbitrator

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Signature Date

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~~NASD Dispute Resolution~~

Arbitration No. 03-01911

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**RECEIVED**

APR 26 2004

Heather D. Fitzenhagen, Esq.  
Non-Public Arbitrator

Signature Date **ARBITRATION**

  
John Berryman  
Non-Public Arbitrator

April 23, 2004  
Signature Date

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