

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

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In the Matter of the Arbitration Between:

Jeremy Barnes v. Wachovia Securities, LLC, Alan J. Davidofsky and Theodore Geller

Case Number: 03-02062

Hearing Site: New York, NY

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Nature of Dispute: Customer vs. Member and Associated Persons

**REPRESENTATION OF PARTIES**

Jeremy Barnes, hereinafter referred to as "Claimant": William C. Rand, Esq., Law Offices of William Coudert Rand, New York, NY.

Wachovia Securities, LLC, Alan J. Davidofsky and Theodore Geller, hereinafter collectively referred to as "Respondents": Andrew R. Park, Esq., Wachovia Securities, LLC, Richmond, VA.

**CASE INFORMATION**

Statement of Claim filed on or about: March 21, 2003.

Claimant, Jeremy Barnes, signed the Uniform Submission Agreement: March 9, 2003.

Joint Statement of Answer filed by Respondents: May 30, 2003.

Respondent Theodore Geller also filed a Motion to Dismiss.

Respondent, Wachovia Securities, LLC, did not submit a Uniform Submission Agreement.

Respondent, Alan J. Davidofsky, did not submit a Uniform Submission Agreement.

Respondent, Theodore Geller, did not submit a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading, unfair dealing, breach of fiduciary duty, negligence, breach of contract, violation of the Federal Securities Laws and common law fraud, and failure to supervise. The Claimant's claims involved Cisco stock and Altera stock.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested Compensatory damages in an amount to be demonstrated at Arbitration, but which were believed to be at least \$48,107.97; commissions; margin interest; interest at the legal rate of 9% per annum from September 1, 2002 through the date of the arbitration decision; reimbursement of margin interest, punitive damages of \$50,000; costs of arbitration, including expert witness fees, filing fees, and hearing costs; reasonable attorneys' fees; and such other further relief as the Arbitrators deem just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety and issuance of an Order of expungement of any reference to this matter from Alan J. Davidofsky's and Theodore Geller's Central Registration Depository System Records, costs (including expert witness fees) and attorney's fees expended in defense of this proceeding, and any other relief as is just.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents Wachovia Securities, LLC, Alan J. Davidofsky, and Theodore Geller did not file with NASD Dispute Resolution, Inc. a properly executed submission agreement but are required to submit to arbitration pursuant to the Code and, having answered the claim and appeared, are bound by the determination of the Panel on all issues submitted.

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**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of Respondents for entry of an award, the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

- 1) Claimant's claims against Respondent Theodore Geller are dismissed with prejudice.
- 2) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Theodore Geller's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Theodore Geller must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Wachovia Securities, LLC is a party.

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

#### **Forum Fees and Assessments**

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

(1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
<u>Pre-hearing conference: November 5, 2003 1 session</u>	
Total Forum Fees	= \$ 750.00

1. The Panel has assessed \$ 187.50 of the forum fees against the Claimant.
2. The Panel has assessed \$ 187.50 of the forum fees against Respondent Wachovia Securities, LLC.
3. The Panel has assessed \$ 187.50 of the forum fees against Respondent Alan J. Davidofsky.
4. The Panel has assessed \$ 187.50 of the forum fees against Respondent Theodore Geller.

### **Fee Summary**

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 187.50</u>
Total Fees	= \$ 412.50

<u>Less payments</u>	= \$ 975.00
Amount Refunded to Claimant	= \$ 562.50

2. Respondent Wachovia Securities, LLC. is solely liable for:

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 187.50
Total Fees	= \$ 3,737.50
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 187.50

4. Respondent Alan J. Davidofsky is solely liable for:

<u>Forum Fees</u>	= \$ 187.50
Balance Due NASD Dispute Resolution	= \$ 187.50

5. Respondent Theodore Geller is solely liable for:

<u>Forum Fees</u>	= \$ 187.50
Balance Due NASD Dispute Resolution	= \$ 187.50

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures

WAL. RA

Jeremy Barnes, Claimant  
By Counsel William C. Rand, Esq.

Jan. 12/2004

Signature Date


Wachovia Securities, LLC,  
Alan Davidofsky, and  
Theodore Geller  
Respondents  
By Counsel Andrew R. Park, Esq.

Signature Date

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Jeremy Barnes, Claimant  
By Counsel William C. Rand, Esq.

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Signature Date

  
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Wachovia Securities, LLC,  
Alan Davidofsky, and  
Theodore Geller  
Respondents  
By Counsel Andrew R. Park, Esq.

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

**ARBITRATION PANEL**

Andrew Berger, Esq.	-	Public Arbitrator, Presiding Chair
Martin Fogelman, Esq.	-	Public Arbitrator
Charles H. B. Braisted	-	Industry Arbitrator

**Concurring Arbitrators' Signature(s)**



Andrew Berger, Esq.  
Public Arbitrator, Presiding Chair

January 14, 2004

Signature Date

Martin Fogelman, Esq.  
Public Arbitrator

Signature Date

Charles H. B. Braisted  
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

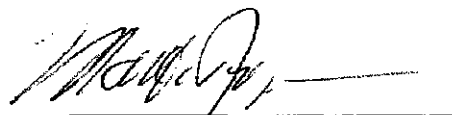
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Martin Fogelman, Esq.  
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Public Arbitrator, Presiding Chair

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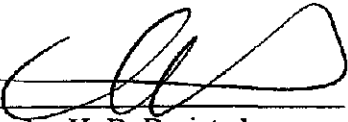
Signature Date

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Martin Fogelman, Esq.  
Public Arbitrator

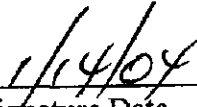
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Signature Date



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Charles H. B. Braisted  
Industry Arbitrator



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