

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kenneth Malcom Dale, Claimant v. Wachovia Securities, LLC, Respondent

Case Number: 03-03369

Hearing Site: San Francisco, California

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

For Claimant:

Kenneth Malcom Dale
San Rafael, California

For Respondent:

Timothy N. Will
Albert & Will, LLP
Torrance, California

CASE INFORMATION

Statement of Claim filed: May 7, 2003

Claimant's Response to Respondent's Statement of Answer filed: August 28, 2003

Claimant's Uniform Submission Agreement signed: May 5, 2003

Statement of Answer filed by Respondent Wachovia Securities, LLC ("Wachovia"): August 7, 2003

Respondent's Uniform Submission Agreement signed: August 7, 2003

CASE SUMMARY

Claimant alleged that the above-referenced dispute involves Claimant's investments in various securities, including but not limited to, investments in INTEL, Lucent and Cisco stocks. Claimant also alleged the following claims with respect to the handling of his accounts: 1) Violation of NASD Rules of Conduct; 2) Unauthorized Trading; 3) Unsuitable Transactions; 4) Misrepresentation; and 5) Failure to Disclose Information.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Damages in the amount of \$100,000.00 or that amount proven at hearing;
2. Interest as provided by law; and
3. Special punitive and exemplary damages.

OTHER ISSUES CONSIDERED AND DECIDED

On June 3, 2003, Claimant 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.

During the hearing, the Panel denied Respondent's motion to exclude Claimant's non-attorney representative. The Panel granted Respondent's motion for directed verdict regarding the claim for unauthorized trading.

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) All claims by Claimant, including the claims for punitive and exemplary damages, are denied.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$225.00

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, Wachovia is a party and the following fees are assessed:

| | |
|----------------------------|---------------------|
| 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 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 with a single arbitrator @ \$450.00/session | = | \$450.00 |
| Pre-hearing conference: April 13, 2004 | 1 session | |

| | | |
|--|-----------|----------|
| (1) Pre-hearing conference session with the Panel @ \$750.00/session | = | \$750.00 |
| Pre-hearing conference: December 4, 2003 | 1 session | |

| | | |
|---|------------|------------|
| (3) Hearing sessions @ \$750.00/session | = | \$2,250.00 |
| Hearing: June 8, 2004 | 2 sessions | |
| June 9, 2004 | 1 session | |

| | | |
|------------------|---|------------|
| Total Forum Fees | = | \$3,450.00 |
|------------------|---|------------|

The Panel assessed the \$3,450.00 in forum fees to Claimant.

Fee Summary

1. Claimant is charged with the following fees and costs:

| | |
|----------------------|------------------------|
| Initial Filing Fee | = \$ 225.00 |
| <u>Forum Fees</u> | <u>= \$ 3,450.00</u> |
| Total Fees | = \$ 3,675.00 |
| <u>Less Payments</u> | <u>= \$ (1,050.00)</u> |
| Balance Due NASD-DR | = \$ 2,625.00 |

2. Respondent is charged with the following fees and costs:

| | |
|----------------------|-----------------------|
| Member Fees | = \$ 3,550.00 |
| <u>Less Payments</u> | <u>= \$(3,550.00)</u> |
| Balance Due NASD-DR | = \$ 0.00 |

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

ARBITRATION PANEL

Paul F. Faberman
Matthew J. Williams
James R. Dickson

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Paul F. Faberman
Chair, Public Arbitrator

6/24/04
Signature Date

Matthew J. Williams
Public Arbitrator

Signature Date

James R. Dickson
Non-Public Arbitrator

Signature Date

6/25/04

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Arbitration No. 03-03369
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All balances are payable to NASD Dispute Resolution and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

| | | |
|---------------------|---|------------------------------------|
| Paul F. Faberman | - | Public Arbitrator, Presiding Chair |
| Matthew J. Williams | - | Public Arbitrator |
| James R. Dickson | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

Paul F. Faberman
Chair, Public Arbitrator

Signature Date



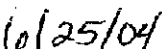
Matthew J. Williams
Public Arbitrator



Signature Date

James R. Dickson
Non-Public Arbitrator

Signature Date



Date of Service

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Arbitration No. 03-03369
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ARBITRATION PANEL

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| Paul F. Faberman | - | Public Arbitrator, Presiding Chair |
| Matthew J. Williams | - | Public Arbitrator |
| James R. Dickson | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

Paul F. Faberman
Chair, Public Arbitrator

Signature Date

Matthew J. Williams
Public Arbitrator

Signature Date



James R. Dickson
Non-Public Arbitrator

7 July 2004
Signature Date

7/14/04
Date of Service