

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Boniface Maduka and Boniface Maduka, IRA, Claimants v. Wachovia Securities, LLC and
Martin Fouts, Respondents

Case Number: 03-04949

Hearing Site: Portland, Oregon

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Richard M. Layne, Esq.,
Layne & Lewis
Portland, Oregon

For Respondents:

Fredrick D. Huebner, Esq.
Cable, Langenbach, Kinerk & Bauer,
LLP
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: July 2, 2003

Claimants' Joint Uniform Submission Agreement signed: April 30, 2003

Statement of Answer filed by Respondent Martin Fouts: September 9, 2003

Respondent Martin Fout's Uniform Submission Agreement signed: August 28, 2003

Statement of Answer filed by Respondent Wachovia Securities, LLC: September 22, 2003

Respondent Wachovia Securities, LLC's Uniform Submission Agreement signed: June 22, 2004

CASE SUMMARY

In the Statement of Claim, Claimants alleged negligence, failure to supervise, suitability, violation of Oregon Securities Laws, unauthorized transactions, misrepresentation and omissions involving investments in high risk annuities largely concentrated in the technology sector.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$221,230.78, interest at the rate of 9% per annum, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On May 21, 2004, the Chair of the Panel, Christopher Blattner withdrew from the Panel. On or about June 2, 2004, the parties agreed that the Non-Public arbitrator, Mr. Keith Ketterling, should serve as the Chair of the Panel.

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) Respondents Wachovia Securities, LLC and Martin Fouts are jointly and severally liable to and shall pay Claimants the sum of \$93,399.00 in compensatory damages.
- 2) Respondents Wachovia Securities, LLC and Martin Fouts are jointly and severally liable to and shall pay Claimants simple interest at the rate of 6% per annum on the sum of \$93,399.00 from August 31, 2001 until the payment of this award is made in full.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

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	= \$ 300.00
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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 Wachovia Securities, LLC is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$2,750.00
Total Member Fees	= \$5,200.00

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 or the parties and the Panel. The following fees are assessed:

(2) Pre-hearing conference session with the Chair @ \$450.00/session	= \$ 900.00
Pre-hearing conferences:	
February 20, 2004	1 session
June 14, 2004	1 session
(1) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference:	
November 13, 2003	1 session
(5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings:	
July 12, 2004	2 sessions
July 13, 2004	2 sessions
July 14, 2004	1 session
Total Forum Fees	= \$7,650.00

The Panel assessed \$7,650.00 of the forum fees jointly and severally to Respondents.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$(1,425.00)
Refund Due Claimants	= \$(1,125.00)

2. Respondent Wachovia Securities, LLC is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Wachovia Securities, LLC and Martin Fouts are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$7,650.00
Balance Due NASD Dispute Resolution	= \$7,650.00

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

Keith A. Ketterling, Esq.
Carol N. Wenzel
Nina Vallion, JD

- Non-Public Arbitrator, Presiding Chair
- Public Arbitrator
- Public Arbitrator

Concurring Arbitrators' Signatures


Keith A. Ketterling, Esq.
Chair, Non-Public Arbitrator

8/05/04
Signature Date

Carol N. Wenzel
Public Arbitrator

Signature Date

Nina Vallion, JD
Non-Public Arbitrator

Signature Date

8/6/04
Date of Service

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Carol N. Wenzel	-	Public Arbitrator
Nina Vallion, JD	-	Public Arbitrator

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Carol N. Wenzel
Public Arbitrator

8-6-04
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Public Arbitrator

Signature Date

Nina Vallion

Nina Vallion, JD
Non-Public Arbitrator

Aug 4 - 04

Signature Date

8/6/04

Date of Service