

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William Hurley and Holly M. Hurley JTWROS and William Hurley IRA (Claimants) v.
Wachovia Securities, LLC, James Hart, and Lance Million (Respondents)

Case Number: 03-05384

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants William Hurley and Holly M. Hurley JTWROS ("The Hurleys") and William Hurley IRA ("W. Hurley IRA") hereinafter collectively referred to as "Claimants": Neil A. Sussman, Esq., Sussman & Frankel, LLP, New York, NY.

Respondents Wachovia Securities, LLC ("Wachovia"), James Hart ("Hart"), and Lance Million ("Million") hereinafter collectively referred to as "Respondents": Craig S. Hilliard, Esq., Stark & Stark, P.C., Princeton, NJ.. Previously represented by: Timothy S. Baird, Esq., Wachovia Securities, LLC, Richmond, VA.

CASE INFORMATION

Statement of Claim filed on or about: July 22, 2003.

Claimants signed the Uniform Submission Agreement: July 15, 2003.

Joint Statement of Answer filed by Respondents on or about: September 26, 2003.

Respondent Wachovia signed the Uniform Submission Agreement: September 26, 2003.

Respondent Hart signed the Uniform Submission Agreement: September 25, 2003.

Respondent Million signed the Uniform Submission Agreement: September 25, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; negligence; misrepresentation and omission; breach of fiduciary duty; breach of contract; violation of securities laws; churning; secondary liability; and failure to supervise. Claimants' claim involved an AIM high yield income mutual fund and other various allegedly unsuitable securities.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$156,000.00 plus pre- and post-judgment interest at the rate of 9% per annum; well-managed portfolio damages; attorneys' fees; and costs.

Respondents requested that the Panel deny all claims asserted by Claimants and award Respondents their costs incurred in connection with this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant William Hurley did not appear at the hearings.

The claim presented against Respondent Million were withdrawn prior to the arbitration of this matter.

The parties have 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, and 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. Respondents Hart and Wachovia are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$61,071.00, plus interest at the rate of 8% per annum from September 10, 2004 to the date of payment of the award.
2. Respondents Hart and Wachovia are jointly and severally liable for and shall pay to Claimants the sum of \$300.00, to reimburse Claimants for the filing fee previously paid to NASD Dispute Resolution.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Lance Million'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 Million must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein is denied.

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	= \$300.00
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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. Accordingly, Wachovia Securities, LLC is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: January 14, 2004 1 session	

Five (5) Hearing sessions @ \$1,125.00	= \$5,625.00
Hearing Dates: September 8, 2004 2 sessions	
September 9, 2004 2 sessions	
September 10, 2004 1 session	

Total Forum Fees	= \$6,750.00
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1. The Panel has assessed \$6,750.00 of the forum fees against Respondent Wachovia.

Fee Summary

1. Claimants are jointly and severally liable for:

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

As stated in the "Award" section above, Respondents Hart and Wachovia are jointly and severally liable for and shall reimburse Claimants for the \$300.00 filing fee.

2. Respondent Wachovia is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 6,750.00</u>
Total Fees	= \$11,950.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,750.00

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

ARBITRATION PANEL

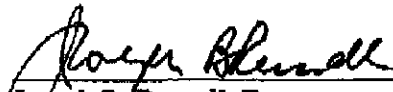
Robert E. Thompson, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph B. Russell, Esq.	-	Public Arbitrator
Joseph C. Pickard, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Robert E. Thompson, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Joseph B. Russell, Esq.
Public Arbitrator

9/24/04

Signature Date

Joseph C. Pickard, Jr., Esq.
Non-Public Arbitrator

Signature Date

SEPTEMBER 27, 2004

Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

Robert E. Thompson, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph B. Russell, Esq.	-	Public Arbitrator
Joseph C. Pickard, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

Robert E. Thompson, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Joseph B. Russell, Esq.
Public Arbitrator

Signature Date



Joseph C. Pickard, Jr., Esq.
Non-Public Arbitrator

9/21/04

Signature Date


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

ARBITRATION PANEL

Robert E. Thompson, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph B. Russell, Esq.	-	Public Arbitrator
Joseph C. Pickard, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.



Robert E. Thompson, Esq.
Public Arbitrator, Presiding Chairperson

9-27-04

Signature Date

Joseph B. Russell, Esq.
Public Arbitrator

Signature Date

Joseph C. Pickard, Jr., Esq.
Non-Public Arbitrator

Signature Date

SEPTEMBER 27, 2004

Date of Service (For NASD Dispute Resolution use only)