

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Names of the Claimants

ERIC P. AND DORIS KOACH,

Case Number: 03-05589

Hearing Site: Houston, Texas

and

Names of Respondents

WACHOVIA SECURITIES LLC,  
formerly known as WACHOVIA SECURITIES, INC.  
and RAYMOND C. GIBSON

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**NATURE OF DISPUTE**

Customers vs. Member Firm and Associated Person

**REPRESENTATION OF THE PARTIES**

Doris and Eric Koach, ("**Claimants**") were represented by Mark C. Watler, Esq., of Ross, Banks, May, Cron & Cavin, P.C., in Houston, Texas.

Wachovia Securities LLC, formerly known as Wachovia Securities, Inc. ("**Wachovia**") and Raymond C. Gibson ("**Gibson**"), were represented by Retta A. Miller, Esq., of Jackson Walker L.L.P., in Dallas, Texas.

**CASE INFORMATION**

The Statement of Claim filed on or about July 25, 2003.

The Claimants signed the Uniform Submission Agreement on or about July 22, 2003.

The Respondents filed their Joint Answer to Statement of Claim on or about September 24, 2003.

The Respondents signed the Uniform Submission Agreements on or about September 18 and 24, 2003, respectively.

### **CASE SUMMARY**

Claimants asserted the following causes of action: violations of the Texas Deceptive Trade Practices Act; violations of Tex. Bus. & Comm. Code Ann. § 27.01; violations of Texas Securities Act Ann. Art. 581-33A(2); and violations of Section 12 of the 1933 Securities Act; common law fraudulent misrepresentation; and gross negligence. The cause of actions relate to the purchase and sale of unspecified common stock and options.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief may be granted, and fails to state facts sufficient to constitute a cause of action; Claimants directed, approved and authorized each and every transaction in their account; Claimants ratified each and every transaction in their account; and the Statement of Claim is barred by the doctrines of laches, waiver and estoppel.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/ Compensatory Damages	\$2,095,519.66
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Other Monetary Relief	Unspecified
Other Costs	Unspecified
Attorney's Fees	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and that Respondent Gibson's CRD record be expunged of all references to this matter.

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

On or about June 30, 2004, the parties informed NASD Dispute Resolution that they had entered into a confidential settlement agreement pursuant to which the parties stipulated to dismiss this proceeding and to jointly request that the reference to this proceeding be expunged from the registration records of Respondent Gibson.

The parties have agreed that the Stipulated Award in this matter may be executed by a single arbitrator.

### **STIPULATED AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrator orders as follows:

1. All claims are hereby dismissed;
2. Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
3. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Raymond Gibson'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 Raymond C. Gibson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### **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	=\$500.00
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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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Wachovia Securities, LLC.

Member surcharge	=\$2,800.00
Pre-hearing Process fee	=\$ 750.00
Hearing process fee	=\$5,000.00

#### **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 a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: March 3, 2004

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00  
Pre-hearing conference: February 12, 2004

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Total Forum Fees = \$1,650.00

### FEE SUMMARY

Claimants, Eric and Doris Koach, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 825.00
Total Fees	= \$ 1,325.00
Less payments	= \$ 1,700.00
Refund Due to Claimants	= \$ 375.00

Respondent, Wachovia Securities, LLC is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Wachovia Securities, LLC and Raymond Gibson, are jointly and severally liable for:

Forum Fees	= \$ 825.00
Total Fees	= \$ 825.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 825.00

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

### ARBITRATION PANEL

James Sean Healey, Esq. – Public Arbitrator, Presiding Chair

Arbitrator:

/s/ James Sean Healey  
James Sean Healey, Esq.  
Public Arbitrator, Presiding Chair

July 21, 2004  
Signature Date

July 22, 2004  
Date of Service (For NASD office use only)

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00

<b>Total Forum Fees</b>	<b>= \$1,650.00</b>
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### FEE SUMMARY

**Claimants, Eric and Doris Koach, are jointly and severally liable for:**

**Initial Filing Fee** = \$ 500.00

Forum Fees	\$ 825.00
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<b>Total Fees</b>	<b>-\$ 1,325.00</b>
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**Less payments 1** **= \$ 1,700.00**

<b>Refund Due to Claimants</b>	<b>= \$ 975.00</b>
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**Respondent, Wachovia Securities, LLC is solely liable for:**

**Member Fees** **= \$ 8,550.00**

<b>Total Fees</b>	<b>-\$ 8,550.00</b>
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<b>Less payments:</b>	<b>= \$ 8,550.00</b>
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Balance Due NASD Dispute Resolution	=\$	0.00
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**Respondents, Wachovia Securities, LLC and Raymond Gibson, are jointly and severally liable for:**

**Forum Fees** **=\$ 825.00**

<b>Total Fees</b>	<b>= \$ 825.00</b>
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<b>Less Payments</b>	<b>= \$ 0.00</b>
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Balance Due NASD Dispute Resolution	= \$ 825.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

**James Sean Healey, Esq. – Public Arbitrator, Presiding Chair**

**Apprentice**

James Sean Healey, Esq.

**Public Arbitrator, Presiding Chair**

**Signature Date**

**Date of Service (For NASD office use only)**