
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Kelly Ott

Case Number: 03-05730

Names of the Respondents
Wachovia Securities, LLC and
First Clearing Corp.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Kelly Ott, hereinafter referred to as "Claimant", appeared pro se.

For Wachovia Securities, LLC ("Wachovia") and First Clearing Corp. ("FCC"), hereinafter collectively referred to as "Respondents": Douglas D. Callaway, Vice President and Counsel, Wachovia Securities, LLC, Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on or about: August 5, 2003.

Claimant signed the Uniform Submission Agreement: August 2, 2003.

Statement of Answer filed by Respondents on or about: September 12, 2003.

Respondent Wachovia signed the Uniform Submission Agreement: September 12, 2003.

Respondent FCC signed the Uniform Submission Agreement: September 17, 2003.

Request to Amend Relief filed by Claimant on or about: February 2, 2004.

CASE SUMMARY

Claimant asserted the causes of action of failure to transfer accounts and breach of fiduciary duty. The causes of action relate to the administrative hold placed on Claimant's brokerage accounts by Respondents in connection with Claimant's former employment by Respondent Wachovia.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondents asserted a counterclaim for breach of contract with respect to the Promissory Note ("Note") executed by Claimant.

RELIEF REQUESTED

Claimant requested that Respondents transfer Claimant's brokerage accounts to Oppenheimer & Co., Inc., plus an award of compensatory damages in the amount of \$93,702.14 and punitive

damages in the amount of \$900.00.

Respondents requested that Claimant's claims be dismissed in their entirety. In addition, Respondents requested compensatory damages in the amount of \$92,802.14, attorney's fees and costs in their Counterclaim.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 1, 2004, the Panel issued an order granting Claimant's Request to Amend Relief and reducing Claimant's request for compensatory damages from \$180,157.56 to \$93,702.14.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Claimant's claims are denied in their entirety.

Claimant is liable to Respondents on the claim of breach of contract. As such, Respondents shall retain the amount of \$92,802.14 previously withheld from Claimant's accounts in payment of the balance due on the Note.

Claimant is liable and shall pay to Respondents attorney's fees in the amount of \$5,375.00 pursuant to the Note.

Claimant is liable and shall pay to Respondents costs in the amount of \$1,375.00 pursuant to the Note.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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
Counterclaim filing fee	= \$1,000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firms Wachovia Securities, LLC and First Clearing Corp. are parties.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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 the Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: January 20, 2004 1 session	

One (1) Hearing session @ \$750.00	= \$ 750.00
Hearing Date: July 19, 2004 1 session	

Total Forum Fees	= \$1,500.00
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The Panel has assessed \$750.00 of the forum fees to Claimant.

The Panel has assessed \$750.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 1,050.00
Less payments	= \$ 75.00
Balance Due NASD Dispute Resolution	= \$ 975.00

Respondent Wachovia is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent FCC is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 3,650.00
Balance Due NASD Dispute Resolution	= \$ 1,550.00

Respondents Wachovia and FCC are jointly and severally liable for:

Counterclaim Filing Fees	= \$ 1,000.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 1,750.00
Less payments	= \$ 1,750.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Patrick L. Bellantoni	-	Non-Public Arbitrator, Presiding Chairperson
Thomas C. Moxley	-	Non-Public Arbitrator
David T. Maddux	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

07/20/04

Patrick L. Bellantoni
Non-Public Arbitrator, Presiding Chairperson

Signature Date

/s/

07/20/04

Thomas C. Moxley
Non-Public Arbitrator

Signature Date

/s/

07/20/04

David T. Maddux
Non-Public Arbitrator

Signature Date

07/21/04

Date of Service (For NASD Dispute Resolution office use only)

JUL 20 2004 11:27AM

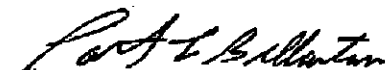
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Concurring Arbitrators' Signatures



Patrick L. Bellantoni
Non-Public Arbitrator, Presiding Chairperson

07-20-2004

Signature Date

Thomas C. Moxley
Non-Public Arbitrator

Signature Date

David T. Maddux
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Patrick L. Bellantoni
 Non-Public Arbitrator, Presiding Chairperson

Signature Date

Thomas C. Moxley
 Thomas C. Moxley
 Non-Public Arbitrator

20 Jul 04
 Signature Date

David T. Maddux
 Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

Patrick L. Bellantoni
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Thomas C. Moxley
Non-Public Arbitrator

Signature Date



David T. Maddux
Non-Public Arbitrator



Signature Date

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