

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Lana E. Weeks

and

Case Number: 03-06583
Hearing Site: Houston, Texas

Name of Respondent

Wachovia Securities, LLC

NATURE OF DISPUTE

Customer v. Member Firm

REPRESENTATION OF PARTIES

Lana E. Weeks ("**Claimant**") was represented by Kurt Arbuckle, Esq., Kurt Arbuckle, P.C., Houston, Texas.

Wachovia Securities, LLC ("**Wachovia**") was represented by Todd Ratner, Esq., Wachovia Securities, LLC, Richmond, Virginia.

CASE INFORMATION

The Statement of Claim was filed on or about September 10, 2003. The Submission Agreement of Claimant, Lana E. Weeks, was signed on or about September 3, 2003.

The Statement of Answer was filed by Respondent, Wachovia Securities, LLC, on or about November 26, 2003. The Submission Agreement of Respondent, Wachovia Securities, LLC, was signed on or about November 26, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: negligence, failure to supervise, breach of fiduciary duty, misrepresentations, omissions and suitability. The causes of action related to the recommendation and purchase of unspecified Class B mutual funds. Based on her broker's, Douglas B. Shaw's, representations, Claimant rolled over her Texaco retirement account into an IRA account in the amount of \$409,479.90, on or about December 15, 1999, and on or about February 22, 2000, she placed \$95,000.00 in a taxable account. Claimant alleged that instead of having Claimant first withdraw funds

from the taxable account, Mr. Shaw advised her to enter into an agreement under Section 72t of the Internal Revenue Code, in which she was to withdraw \$4,000.00 per month to live on. Claimant alleged that committing her to premature distributions from her IRA account under the 72t rules could have been only for the purpose of generating monthly commissions for the broker. Claimant alleged that Mr. Shaw invested 100% of her proceeds into stocks, and that there was no diversification. Furthermore, Claimant asserted that almost all of these investments in stocks were made through investments in Class B mutual funds.

Unless specifically admitted in its Answer, Respondent, Wachovia, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief may be granted; the Statement of Claim is barred, in whole or in part, by the equitable doctrines of laches, unclean hands, and estoppel; Claimant authorized, directed, and ratified all of the transactions in her account; Claimant is barred from recovery because she knowingly assumed the risks of her investments; and Claimant is not entitled to recover to the extent she failed to mitigate her damages.

RELIEF REQUESTED

Claimant requested an award in the amount of:

| | |
|-----------------------|-------------|
| Actual/Compensatory | \$250,000 |
| Punitive/Exemplary | \$500,000 |
| Interest | Unspecified |
| Attorney's Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary Relief | Unspecified |

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Wachovia Securities, LLC, is liable for and shall pay to Claimant, Lana E. Weeks, the sum of \$84,000.00 in compensatory damages;
- 2.) Respondent, Wachovia Securities, LLC, is liable for and shall pay to Claimant, Lana E. Weeks, the sum of \$32,500.00 in attorneys fees pursuant to Texas statute;
- 3.) Respondent, Wachovia Securities, LLC, is liable for and shall pay to Claimant, Lana E. Weeks, the sum of \$6,000.00 in costs; and
- 4.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

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 = \$ 375.00

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 = \$2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$4,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1,200.00 | | = \$1,200.00 |
| Pre-hearing conference: March 19, 2004 | 1 session | |
| Four (4) Hearing sessions x \$1,200.00 | | = \$4,800.00 |
| Hearing Date: September 7, 2004 | 2 sessions | |
| September 8, 2004 | 2 sessions | |
| <hr/> Total Forum Fees | | <hr/> = \$6,000.00 |

The Arbitration Panel has assessed \$6,000 of the forum fees to Wachovia Securities, LLC.

FEE SUMMARY

Claimant, Lana E. Weeks, is liable for:

| | |
|------------------------|---------------|
| Initial Filing Fee | = \$ 375.00 |
| Total Fees | = \$ 375.00 |
| Less payments | = \$ 1,575.00 |
| Refund Due to Claimant | = \$ 1,200.00 |

Respondent, Wachovia Securities, LLC, is liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 7,000.00 |
| Forum Fees | = \$ 6,000.00 |
| Total Fees | = \$13,000.00 |
| Less payments | = \$ 7,000.00 |
| Balance Due NASD Dispute Resolution | = \$ 6,000.00 |

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

ARBITRATION PANEL

John K. Boyce, III, Esq. - Public Arbitrator, Presiding Chair
Sherry R. Wetsch, Esq. - Public Arbitrator
Gerald Don Gregory - Non-Public Arbitrator

Concurring Arbitrators:

/s/ John K. Boyce, III, Esq.
John K. Boyce, III, Esq.
Public Arbitrator, Presiding Chair

September 10, 2004
Signature Date

/s/ Sherry R. Wetsch
Sherry R. Wetsch, Esq.
Public Arbitrator

September 12, 2004
Signature Date

/s/ Gerald Don Gregory
Gerald Don Gregory
Non-Public Arbitrator

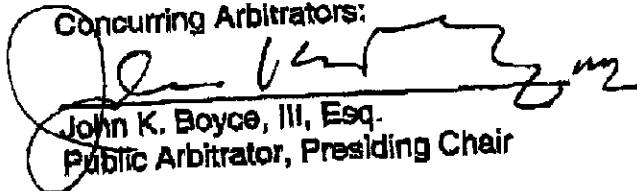
September 10, 2004
Signature Date

September 10, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

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Sherry R. Wetsch, Esq. - Public Arbitrator
Gerald Don Gregory - Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

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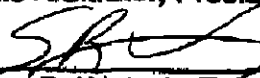
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John K. Boyce, III, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Sherry R. Wetsch, Esq.
Public Arbitrator

9-12-04

Signature Date

Gerald Don Gregory
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Sherry R. Wetsch, Esq. - Public Arbitrator
Gerald Don Gregory - Non-Public Arbitrator

Concurring Arbitrators:

John K. Boyce, III, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Sherry R. Wetsch, Esq.
Public Arbitrator

Signature Date



Gerald Don Gregory
Non-Public Arbitrator

9-10-04

Signature Date

Date of Service (For NASD office use only)