

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

John Dennis IRA (Claimant) v. Wachovia Securities, LLC and Michael Ewanouski
(Respondents)

Case Number: 04-00361

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant John Dennis IRA ("Dennis") hereinafter referred to as "Claimant": Edmund Polubinski, Jr., Esq., Richard and Tyler, LLP, Boston, MA. Previously represented by: Edmund Polubinski, Jr., Esq., Zimble & Brettler, LLP, Boston, MA.

Respondents Wachovia Securities, LLC ("Wachovia") and Michael Ewanouski ("Ewanouski") hereinafter collectively referred to as "Respondents": David L. Ward, Esq., Michaels & Ward, LLP, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: January 16, 2004.

Claimant signed the Uniform Submission Agreement: January 8, 2004.

Joint Statement of Answer filed by Respondents on or about: April 9, 2004.

Respondent Wachovia signed the Uniform Submission Agreement: April 19, 2004.

Respondent Ewanouski signed the Uniform Submission Agreement: April 25, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; unauthorized trading; misrepresentations and omissions. The causes of action relate to shares of Ask Jeeves, Inc., Elot, Inc., EntreMed, Inc., Focus Enhancements, Inc., H Power Corp., IXL Enterprises, Inc., Intasys Corp., VA Linux Systems, Inc., and SLI, Inc.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$132,891.21; attorneys' fees; and costs.

Respondents requested that the Panel dismiss the Statement of Claim, with prejudice; costs and expenses, including reasonable attorneys' fees, forum fees, and such further relief as the Panel may deem just and proper. Furthermore, Respondent Ewanowski requested that the Panel order the expungement of this matter from his CRD record.

OTHER ISSUES CONSIDERED AND 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.

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. Claimant's claim is dismissed in its entirety.
2. Any and all relief not specifically addressed herein including a request for expungement 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 person 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: June 29, 2004 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: March 21, 2005 2 sessions	
March 22, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$5,625.00

1. The Panel has assessed \$2,812.50 of the forum fees against Claimant.
2. The Panel has assessed \$2,812.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,112.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,687.50
2. 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
3. Respondents are jointly and severally liable for:	
Forum Fees	= \$2,812.50
Total Fees	= \$2,812.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,812.50

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

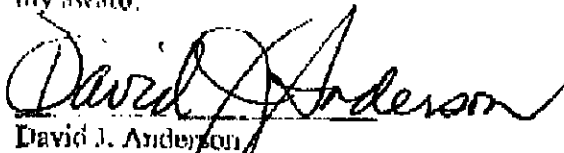
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ARBITRATION PANEL

David J. Anderson	-	Public Arbitrator, Presiding Chairperson
Jeffrey L. Levy, Esq.	-	Public Arbitrator
Stephen M. Accerra, 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 which is my award.


David J. Anderson
Public Arbitrator, Presiding Chairperson

3/28/05
Signature Date

Jeffrey L. Levy, Esq.
Public Arbitrator

Signature Date

Stephen M. Accerra, Jr., Esq.
Non-Public Arbitrator

Signature Date

March 29, 2005
Date of Service (For NASD Dispute Resolution use only)

NASD REGULATION

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Signature Date



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Non-Public Arbitrator

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NASD REGULATION

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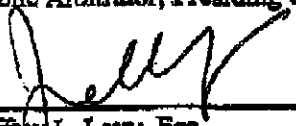
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