

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Lynn E. Welch (Claimant) vs. Wachovia Securities, Inc. f/k/a First Union Securities, Robert Suchocki, and John Pascarella (Respondents)

Case Number: 04-01116

Hearing Site: Newark, New Jersey

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

**REPRESENTATION OF PARTIES**

Claimant Lynn E. Welch hereinafter referred to as "Claimant": Ambrose M. Richardson, Esq., A.M. Richardson, P.C., New York, NY.

Respondents Wachovia Securities, Inc. f/k/a First Union Securities ("Wachovia"), Robert Suchocki ("Suchocki"), and John Pascarella ("Pascarella") hereinafter collectively referred to as "Respondents": Thomas B. Lewis, Esq., Stark & Stark, Princeton, NJ.

**CASE INFORMATION**

Statement of Claim filed on or about: February 20, 2004.

Reply to Counterclaim filed on or about: May 20, 2004.

Claimant signed the Uniform Submission Agreement: February 19, 2004.

Statement of Answer and Counterclaim filed by Respondents on or about: May 11, 2004.

Wachovia signed the Uniform Submission Agreement: May 10, 2004.

Suchocki signed the Uniform Submission Agreement: May 11, 2004.

Pascarella signed the Uniform Submission Agreement: May 11, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to defend and indemnify, interference with right to defend oneself, interference with prospective advantage, misappropriation of book of business and emotional distress.

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

In its Counterclaim, Respondent Wachovia asserted the following cause of action: repayment of monies owed.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in an unspecified amount, consequential, incidental, and special damages, exemplary and punitive damages, costs, attorneys' fees, pre-judgment interest, post-judgment interest, expungement of Claimant's CRD records, an Order barring Respondent Suchocki and Respondent Pascarella from holding any supervisory positions with any NASD member firm, and for such other relief as may be just and equitable.

Respondents requested dismissal of the Statement of Claim in its entirety, compensatory damages in the amount of \$6,241.13 plus interest, attorneys' fees, costs, and any additional relief awarded by the Panel.

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

At the hearing, Respondents moved to dismiss Claimant's claims. After due deliberation, the Panel granted Respondents' Motion to Dismiss.

Respondent Wachovia requested an award of costs and legal fees. Claimant was provided with an opportunity to submit a response. The Panel heard oral testimony on the request and issued the ruling below.

Arbitrator Frank Irizarry was not available for the September 22, 2006 telephonic hearing. The parties agreed to proceed with two arbitrators.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be executed.

### **AWARD**

After considering the pleadings, 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 claims are dismissed in their entirety.
2. Claimant is liable for and shall pay to Respondent Wachovia attorneys' fees in the amount of \$25,000.00 pursuant to Rule 11 of the Federal Rules of Civil Procedure.
3. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$	250.00
Counterclaim filing fee	= \$	500.00

### **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 persons at the time of the events giving rise to the dispute. Accordingly, Wachovia Securities, Inc. f/k/a First Union Securities is a party.

Member surcharge	= \$	1,500.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,200.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

November 8-10, 2005 adjournment by Claimant	= \$	1,000.00
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### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

November 8-10, 2005 adjournment by Claimant	= \$	300.00
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### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

Four (4) Pre-hearing sessions with single arbitrator @ \$450.00	= \$	1,800.00
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Pre-hearing conferences:	October 25, 2004	1 session
	November 11, 2004	1 session
	March 11, 2005	1 session
	July 11, 2005	1 session

One (1) Pre-hearing sessions with Panel @ \$1,000.00	= \$	1,000.00
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Pre-hearing conference:	August 3, 2004	1 session
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Nine (9) Hearing sessions @ \$1,000.00/session	= \$	9,000.00
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Hearing Dates:	June 7, 2006	2 sessions
	June 8, 2006	2 sessions
	June 9, 2006	2 sessions
	June 28, 2006	2 sessions
	September 22, 2006	1 session

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Total Forum Fees	= \$11,800.00
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1. The Panel has assessed \$11,800.00 of the forum fees to Claimant

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Adjournment Fee	= \$ 1,000.00
Three Day Rule Fee	= \$ 300.00
Forum Fees	= \$11,800.00
Total Fees	= \$13,350.00
Less payments	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$12,100.00

2. Respondent Wachovia is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$ 4,450.00
Total Fees	= \$ 4,950.00
Less payments	= \$ 5,200.00
Refund Due Wachovia	= \$ 250.00

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

**ARBITRATION PANEL**

Andrew Jay Gerber	-	Public Arbitrator, Presiding Chairperson
Martin Jay Siegel, Esq.	-	Public Arbitrator
Frank Irizarry, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Andrew Jay Gerber  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Martin Jay Siegel, Esq.  
Public Arbitrator

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Signature Date

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Frank Irizarry, Esq.  
Non-Public Arbitrator

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Signature Date

September 29, 2006  
Date of Service (For NASD Dispute Resolution use only)

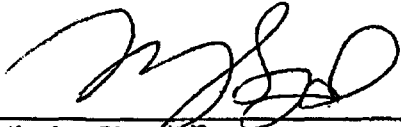
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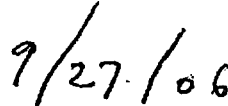
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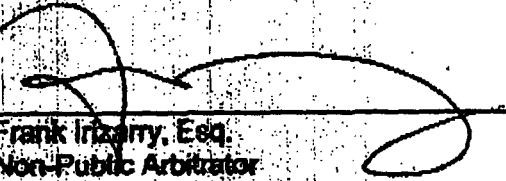
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