

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Kathy F. Nichols , TTEE & POA Amon Nichols Decedent Trust

and

04-01632  
Phoenix, Arizona

Name of Respondents

Wachovia Securities, LLC  
David R. Steinberg

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

**REPRESENTATION OF PARTIES**

Kathy F. Nichols , TTEE & POA Amon Nichols Decedent Trust ("**Claimant**") was represented by Richard A. Nervig, Esq., Richard A. Nervig, P.C., Fallbrook, California.

Wachovia Securities, LLC ("**Respondent Wachovia**") and David R. Steinberg ("**Respondent Steinberg**") hereinafter referred to as ("**Respondents**") were represented by Todd Ratner, Esq., Wachovia Securities, LLC., Richmond, Virginia.

David Steinberg is now represented by Armand Salese, Esq., Tucson, Arizona.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 8, 2004. Submission Agreement of Claimant Kathy F. Nichols , TTEE & POA Amon Nichols Decedent Trust was signed on February 26, 2004.

Response to Statement of Claim was filed by Respondents Wachovia Securities, LLC and David R. Steinberg on or about May 14, 2004. Submission Agreement of Respondent Wachovia Securities, LLC was signed on May 13, 2004 by

Submission Agreement of Respondent David R. Steinberg was signed on May 13, 2004.

**CASE SUMMARY**

Claimant's Statement of Claim alleges claims against Respondents for breach of fiduciary duty, negligence based on suitability and violation of the Arizona Securities Act.

Respondents denied the allegations in the Statement of Claim and asserted several affirmative defenses to those allegations.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$32,194.35 in compensatory damages plus well managed account damages, return of commission, interest, cost and attorneys' fees.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their attorney's fees and costs. Respondent Steinberg requests the expungement of all reference to the above-captioned arbitration from his registration records maintained by the NASD Central Registration Depository ("CRD").-captioned arbitration from his registration records maintained by the NASD Central Registration Depository ("CRD").

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties advised NASD Dispute Resolution that they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed to receive conformed copies of the Stipulated Award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings and the stipulation of the parties, but without making any findings of fact or conclusions of law, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination and find as follows:

1. The undersigned arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent David R. Steinberg'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 David R. Steinberg must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

**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 = \$175.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Wachovia Securities, LLC.

Member surcharge	\$	875.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	1,000.00
Total Member Fees	\$	2,625.00

**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:

Hearing Date(s), January 18-19, 2005. Staff received a voice message from Claimant's attorney that the parties had reached a settlement on Friday, January 14, 2005. = \$100.00

**Fee Summary**

Claimant, Kathy F. Nichols , TTEE & POA Amon Nichols Decedent Trust, shall be and hereby is liable for:

Initial Filing Fee	= \$	175.00
Three day cancellation fee pursuant to Rule 10319(d)	= \$	33.33
Retention of hearing session deposit pursuant to Rule 10332(f)	= \$	450.00
Total Fees	= \$	658.33
<u>Less payments</u>	= \$	<u>-625.00</u>

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Balance Due NASD Dispute Resolution = \$ 33.33

Respondent, Wachovia Securities, LLC, shall be and hereby is liable for:

Member Fees	= \$	2,625.00
Three day cancellation fee pursuant to Rule 10319(d)	= \$	33.33
Total Fees	= \$	2,658.33
<u>Less payments</u>	= \$	-2,625.00
Balance Due NASD Dispute Resolution	= \$	33.33

Respondent, David R. Steinberg, shall be and hereby is liable for:

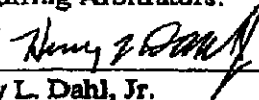
Three day cancellation fee pursuant to Rule 10319(d)	= \$	33.33
Total Fees	= \$	33.33
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	33.33

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Henry L. Dahl, Jr. - Public Arbitrator, Presiding Chair

Concurring Arbitrators:

  
\_\_\_\_\_  
Henry L. Dahl, Jr.  
Public Arbitrator, Presiding Chair

March 16, 2005  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)