

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 04-03070

Patricia N. Earle

Name of the Respondent

Hearing Site: Charlotte, North Carolina

Wachovia Securities, LLC

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Patricia N. Earle, hereinafter referred to as "Claimant", was represented by A. Daniel Woska, Esq., Woska & Hayes, LLP, Oklahoma City, Oklahoma.

Respondent Wachovia Securities, LLC, hereinafter referred to as "Respondent", was represented by Cory Hohnbaum, Esq., Kennedy Covington Lobdell & Hickman, LLP, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on April 22, 2004.

Claimant signed the Uniform Submission Agreement on April 22, 2004.

Statement of Answer filed by Respondent on August 13, 2004.

A representative of Respondent executed the Uniform Submission Agreement on August 4, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: breach of fiduciary duty, failure to supervise, negligence, breach of contract, and violation of blue sky laws. The causes of actions relate to a margin account and the purchase and sale various securities including the following stocks: America Online, Cisco, Intel, Gateway, Lucent, Microsoft, and Qualcomm.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; ratification; waiver; estoppel; there is not independent cause of action for violating NASD Rules; Claimant authorized all transactions; Respondent had adequate supervisory procedures in place; failure to mitigate; any losses were the result of market conditions; and statute of limitations.

### RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$949,604.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed, that the costs of this arbitration be taxed against Claimant, and that the Panel enter such other and further relief as may be just and proper.

### OTHER ISSUES CONSIDERED AND DECIDED

At the conclusion of the Claimant's case, the Respondent moved that all claims be dismissed. The Panel denied the motion.

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, 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. Respondent is liable to and shall pay to Claimant compensatory damages in the amount of \$175,000.00;
2. Respondent is liable to and shall pay to Claimant costs in the amount of \$10,000.00;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### 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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: December 13, 2004 1 session	
Five (5) Hearing sessions @ \$1,200.00	= \$ 6,000.00
Hearing Dates: August 29, 2005 2 sessions	
August 30, 2005 2 sessions	
August 31, 2005 1 session	
Total Forum Fees	= \$ 7,200.00

1. The Panel has assessed \$7,200.00 of the forum fees to Respondent.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 1,575.00
Refund Owed Claimant	= \$ 1,200.00

2. Respondent is assessed and shall pay the following fees:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 7,200.00
Total Fees	= \$14,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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

ARBITRATION PANEL

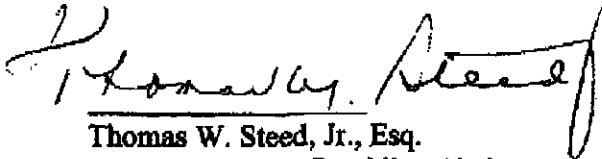
Thomas W. Steed, Jr., Esq.

Bernadette F. Rasmussen

John E. Allison, Jr.

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

  
Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

9/6/05  
Signature Date

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Bernadette F. Rasmussen  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

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John E. Allison, Jr.  
Non-Public Arbitrator, Panelist

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Signature Date

September 8 2005  
Date of Service (For NASD Dispute Resolution office use only)

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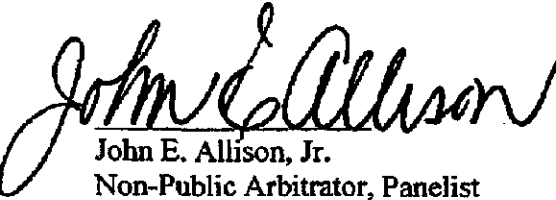
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