

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Edward H. Martin and Joyce V. Martin

and

04-05414
Nashville, Tennessee

Name of Respondents

Wachovia Securities, LLC
Allan Minton

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

REPRESENTATION OF PARTIES

Edward H. Martin and Joyce V. Martin ("**Claimant**") were represented by Thomas C. Jessee, Esq., Jessee & Jessee, Johnson City, Tennessee.

Wachovia Securities, LLC ("**Respondent Wachovia**") and Allan Minton ("**Respondent Minton**") hereinafter referred to as ("**Respondents**") were represented by Rebecca Davis, Esq. Tate, Lazarini & Beall, PLC, Memphis, Tennessee.

CASE INFORMATION

The Statement of Claim was filed on or about July 29, 2004. Submission Agreement of Claimant Edward H. Martin was signed on July 27, 2004. Letter dated March 29, 2005 from Claimants' attorney enclosing copies of opening account forms.

Respondents Answer and Motion to Dismiss Wachovia Securities, LLC and Allan Minton on or about November 2, 2004. Respondents' Supplement to Motion to Dismiss was filed on or about March 29, 2005. Submission Agreement of Respondent Wachovia Securities, LLC was signed on September 20, 2004. Submission Agreement of Respondent Allan Minton was signed on January 18, 2005.

CASE SUMMARY

Claimants' Statement of Claim consisted of the following:

I invested for myself and my wife in IRAs and general accounts with Allan Minton of Wachovia Securities. He purchased stock that I objected to and when I requested the same be sold he told me that I needed to keep it; that it was going to come back. Specifically, Worldcom stock which he continued to trade in as well as other stocks that were not suitable for my investment needs. He then tried to apologize when I lost my money and told me he had been under a lot of pressure but that he would lie if anyone ever asked him about the account. He made inappropriate trades and churned the account in order to receive fees. I lost approximately 65,000.00 [sic] because of Mr. Minton's inappropriate conduct.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

If Claimants were up-front about the facts, what would be revealed is that Claimants were experienced investors, who came to Wachovia seeking to make back a chunk of money that they had lost at Morgan Stanley trading higher risk tech stock on margin. They opened 4 different accounts at Wachovia and across these 4 accounts and their 1 ½ year relationship with Wachovia, they purchased 1 stock – Worldcom – and 4 mutual funds with respect to which they received a prospectus detailing the objectives of the fund and the risks associated therewith:

- Franklin Templeton Growth Fund;
- Mutual Series Fund (a mid cap value fund);
- Franklin US Government Fund; and
- Van Kampen Limited Maturity Government Fund.

By no means were Claimants' accounts churned by a greedy broker seeking to maximize his commissions as Claimants would lead the Panel to believe today. In stark contrast to the fraudulent picture that Claimants seek to paint with a broad brush, Allan Minton earned no more than \$500 in commissions off of Claimants' 4 accounts over the course of a 1 ½ year period. In some transactions, Mr. Minton didn't even charge a commission. In the limited transactions where he did charge a commission, he discounted it. There is absolutely no factual basis or support for Claimants' claim today, which is created in a vacuum devoid of any truth.

Moreover, far from the exaggerated \$65,000 that Claimants claim they lost at Wachovia, Claimants' overall portfolio declined in value by only \$34,000 and 80% of this decline is attributed to a single stock – Worldcom – a stock whose fall from glory as a result of the now well publicized internal corporate fraud never could have been predicted by Allan Minton, Wachovia or the vast majority of the financial world (at least not absent the use of a crystal ball).

RELIEF REQUESTED

Claimants requested an award in the amount of \$65,000.00 in compensatory damages and \$25,000.00 in punitive damages.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded their 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 the NASD Dispute Resolution (the "NASD").

AWARD

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

1. The Motion to Dismiss is granted without prejudice.
2. The Panel recommends the expungement of all references to the allegation of churning Respondent Allan Minton'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 Allan Minton must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. 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.
4. 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:

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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 = \$225.00

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	\$	1,100.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	1,700.00
Total Member Fees	\$	3,550.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

3 Pre-hearing session(s) with Panel	x	750.00	\$	2,250.00
February 9, 2005	1	session		
March 28, 2005	1	session		
March 29, 2005	1	session		
Total Forum Fees			\$	2,250.00

The Arbitration Panel has assessed \$1,500.00 of the forum fees to Edward H. Martin and Joyce V. Martin.

The Arbitration Panel has assessed \$750.00 of the forum fees to Wachovia Securities, LLC.

Fee Summary

Claimants, Edward H. Martin and Joyce V. Martin shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	225.00
Forum Fees	= \$	1,500.00
Total Fees	= \$	1,725.00

<u>Less payments</u>	= \$	-975.00
Balance Due NASD Dispute Resolution	= \$	750.00

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

Member Fees	= \$	3,550.00
<u>Forum Fees</u>	= \$	750.00
Total Fees	= \$	4,300.00
<u>Less payments</u>	= \$	-3,550.00
Balance Due NASD Dispute Resolution	= \$	750.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator, Presiding Chair
David Williams, II, J.D. - Public Arbitrator
Joseph Charles Smolira, Ph.D - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Coleman Robert Perry, Jr.
Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator, Presiding Chair

April 13, 2005
Signature Date

/s/ David Williams, II
David Williams, II, J.D.
Public Arbitrator

April 15, 2005
Signature Date

/s/ Joseph Charles Smolira
Joseph Charles Smolira, Ph.D
Public Arbitrator

April 13, 2005
Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 04-05414
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<u>Less payments</u>	= \$	-975.00
Balance Due NASD Dispute Resolution	= \$	750.00

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

Member Fees	= \$	3,550.00
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Concurring Arbitrator:


 Coleman Robert Perry, Jr., CFP
 Non-Public Arbitrator, Presiding Chair

4-13-05
 Signature Date

 David Williams, II, J.D.
 Public Arbitrator

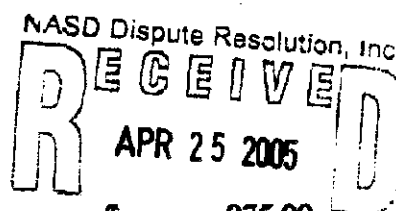
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4/26/05
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Concurring Arbitrators:

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 Non-Public Arbitrator, Presiding Chair

David Williams, II
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Signature Date

4/15/05
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Non-Public Arbitrator, Presiding Chair

Signature Date

David Williams, II, J.D.
Public Arbitrator

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Public Arbitrator

4-13-05

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