

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Names of Claimants

Robert W. Walker and  
Nancy W. Walker,  
individually and as co-trustees of the  
Robert W. Walker and Nancy W. Walker  
Family Living Trust; and  
Robert W. Walker, Jr., as trustee of the  
Walker Irrevocable Trust

vs.

Case Number: 04-06760  
Hearing Site: Oklahoma City, Oklahoma

Names of Respondents

Nova Financial Group, Inc., and  
Timothy B. Dickey

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**NATURE OF DISPUTE**

Customers vs. Non-Member and Associated Person

**REPRESENTATION OF PARTIES**

Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, ("**Claimants**") were represented by Sheldon B. Swan, Esq., of Dunn, Swan & Cunningham, Oklahoma City, Oklahoma.

Nova Financial Group, Inc. ("**Nova Financial**") of Durant, Oklahoma, did not enter an appearance in this matter.

Timothy B. Dickey ("**Timothy Dickey**") of Durant, Oklahoma, did not enter an appearance in this matter.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 12, 2004. The Submission Agreement of Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, were signed on or about April 8, 2004.

Claimants' Motion for Attorneys' Fees and Costs was filed on or about October 18, 2004. Claimants' Request for Evidentiary Hearing was filed on or about October 18, 2004.

Respondents, Nova Financial and Timothy Dickey, did not file a Statement of Answer.

### **CASE SUMMARY**

Claimants asserted the following causes of action: negligence; breach of fiduciary duties; Violation of 71 O.S. 1991, §408)(2) and breach of implied contract. The causes of action related to the recommendation and order execution of Pacific Life, Boston Capital Tax Credit Fund IV L.P., Broad Band Wireless Communications and the purchase of a variable universal life insurance policy and a variable annuity. The Claimants alleged that the Respondents recommended that they invest in these companies and purchase the variable universal life insurance policy and variable annuity despite knowing that they were unsuitable for the Claimants' financial needs.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$207,500.00
Punitive/Exemplary Damages	\$207,500.00
Attorneys' Fees	Unspecified
Interest	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

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

Initially, Claimants' claims against Respondent, Nova Financial Group, Inc., and Timothy B. Dickey, were arbitrated in NASD Arbitration Case 04-02655. By letter dated July 16, 2004, Claimant opted to proceed against Respondents Nova Financial Group, Inc., and Timothy B. Dickey, pursuant to Rule 10314(e) of the *NASD Code of Arbitration Procedure* ("Code"). The claims against Respondents were bifurcated from Case 04-02655 because Respondents failed to file Answers. The arbitrator determined that Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, were properly served notice of the Statement of Claim and Notification of the Arbitrator by certified mail, and that Respondent, Timothy B. Dickey, is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

On November 2, 2004, the Chairperson entered an order, which granted Claimants' request for an evidentiary hearing.

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 NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, and the post-hearing submissions, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, jointly and severally, are liable for and shall pay to Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, the sum of \$207,500.00 in compensatory damages;
- 2) Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, jointly and severally, are liable for and shall pay to Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, the sum of \$207,500.00 in punitive damages;
- 3) Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, jointly and severally, are liable for and shall pay to Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, the sum of \$13,756.00 in attorneys' fees pursuant to Oklahoma statute;
- 4) Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, jointly and severally, are liable for and shall pay to Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, the sum of \$7,173.28 in costs; and
- 5) 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.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00  
(waived due to the Claimants proceeding under Rule 10314(e) of the Code).

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

One (1) Hearing session x \$450.00	= \$ 450.00
Hearing Date: December 1, 2004      1 session	
Total Forum Fees	= \$ 450.00

The Arbitrator has assessed \$450.00 of the forum fees jointly and severally to Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust.

### **FEE SUMMARY**

Claimants, Robert W. Walker and Nancy W. Walker, individually and as co-trustees of the Robert W. Walker and Nancy W. Walker Family Living Trust; and Robert W. Walker, Jr., as trustee of the Walker Irrevocable Trust, are jointly and severally liable for:

Forum Fee	= \$ 450.00
Total Fees	= \$ 450.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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

**ARBITRATOR**

Robert D. Garrett, Esq. - Public Arbitrator, Presiding Chair

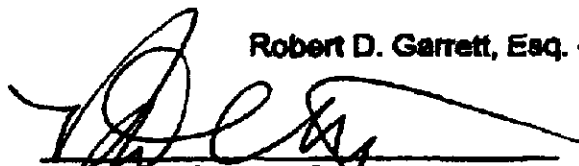
/s/ Robert D. Garrett, Esq.  
Robert D. Garrett, Esq.  
Public Arbitrator, Presiding Chair

12/07/04  
Signature Date

12/07/04  
Date of Service (For NASD office use only)

**ARBITRATOR**

Robert D. Garrett, Esq. - Public Arbitrator, Presiding Chair



Robert D. Garrett, Esq.  
Public Arbitrator, Presiding Chair

7 Dec 04  
Signature Date

Date of Service (For NASD office use only)