

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-08618

Dean Summa
Tamara Romanini Summa

Names of the Respondents

Hearing Site: Philadelphia, Pennsylvania

Wachovia Securities, LLC
Robert B. Fitzpatrick

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

REPRESENTATION OF PARTIES

Claimants, Dean Summa and Tamara Romanini Summa, hereinafter collectively referred to as "Claimants", were represented by Christopher B. Jones, Esq., Attorney at Law, Scranton, Pennsylvania.

Respondents, Wachovia Securities, LLC ("Wachovia") and Robert B. Fitzpatrick ("Fitzpatrick"), hereinafter collectively referred to as "Respondents", were represented by Andrew R. Park, Esq., Wachovia Securities, LLC, Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on December 15, 2004.

Claimants signed the Uniform Submission Agreement on December 15, 2004.

Statement of Answer filed by Respondents on April 28, 2005.

Respondent Fitzpatrick signed the Uniform Submission Agreement on March 21, 2005.

A representative of Respondent Wachovia executed the Uniform Submission Agreement on April 28, 2004.

CASE SUMMARY

Claimants asserted the following causes of action, among others: unsuitability, fraud, misrepresentation, failure to supervise, respondent superior liability, breach of fiduciary duty, and violation of the Pennsylvania Securities Act and Unfair Trade Practices and Consumer Protection Law. The causes of action relate to the following securities, among others: JDS Uniphase Corp. stock, Millenium Pharmaceuticals stock, and Munder FDS Mutual Fund.

Unless specifically admitted in their Answer, Respondents 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, laches, waiver, estoppel, Claimant's authorized all

transactions, failure to mitigate, any losses were the result of market conditions, assumption of risk, and statute of limitations.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$90,000.00
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be denied in its entirety.

OTHER ISSUES CONSIDERED AND 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.

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. Respondents are jointly and severally liable to and shall pay to Claimant Tamara Romanini Summa compensatory damages of \$25,000.00, plus interest of \$4,500.00;
2. Respondents are jointly and severally liable to and shall pay to Claimant Dean Summa compensatory damages of \$10,000.00, plus interest of \$2,400.00.
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 = \$ 225.00

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 Wachovia is a party.

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 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: February 24, 2006 1 session	
March 14, 2006 1 session	
One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: July 20, 2005 1 session	
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Dates: April 4, 2006 2 sessions	
April 5, 2006 2 sessions	
Total Forum Fees	= \$4,650.00

1. The Panel has assessed \$2,325.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$2,325.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$2,325.00
Total Fees	= \$2,550.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$1,575.00

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

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$2,325.00
<u>Total Fees</u>	= \$2,325.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$2,325.00

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

ARBITRATION PANEL

Donald M. Collins, Esq.
William W. Lowe
Lewis R. Jaffe

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

Concurring Arbitrators' Signatures



Donald M. Collins, Esq.
Public Arbitrator, Presiding Chairperson

4/13/06
Signature Date

William W. Lowe
Public Arbitrator, Panelist

Signature Date

Lewis R. Jaffe
Non-Public Arbitrator, Panelist

Signature Date

April 13, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Donald M. Collins, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

W. W. Lowe
William W. Lowe
Public Arbitrator, Panelist

4-13-06
Signature Date

Lewis R. Jaffe
Non-Public Arbitrator, Panelist

Signature Date

April 13, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Donald M. Collins, Esq.
Public Arbitrator, Presiding Chairperson

Signed: _____

William W. Lowe
Public Arbitrator, Panelist

Signed: _____

Lewis R. Jaffe
Non-Public Arbitrator, Panelist

Lewis R. Jaffe

Signed: _____

April 13 2006
Date of Service (For NASD Dispute Resolution office use only)