

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

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In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 05-01183

Wilbur P. Williams, Jr.

Name of the Respondents

Hearing Site: Charlotte, North Carolina

Wachovia Securities, LLC  
Robert Suddreth

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

**REPRESENTATION OF PARTIES**

Claimant Wilbur P. Williams, Jr., hereinafter referred to as "Claimant", was represented by Staten L. Wilcox, Esq., Staten L. Wilcox, P.A., Charlotte, North Carolina.

Respondents Wachovia Securities, LLC ("Wachovia") and Robert Suddreth ("Suddreth"), hereinafter collectively referred to as "Respondents", were represented by Edward F. Hennessey, IV, Robinson, Bradshaw & Hinson, P.A., Charlotte, North Carolina.

**CASE INFORMATION**

*Statement of Claim filed on March 2, 2004.*

Claimant signed the Uniform Submission Agreement on March 2, 2005.

Statement of Answer and Objection to NASD Jurisdiction and to Arbitrability filed by Respondents on May 27, 2005.

Respondent Suddreth signed the Uniform Submission Agreement on May 23, 2006.

Edward F. Hennessey, IV, attorney for Respondent Wachovia executed the Uniform Submission Agreement on April 11, 2006.

Claimant's Response to Respondent's Objection to NASD's Jurisdiction and to Arbitrability was filed on July 13, 2005.

Claimant filed a Second Brief in Opposition to NASD Jurisdiction and Arbitrability on January 27, 2006.

Respondent filed a Supplemental Filing Regarding NASD jurisdiction on March 9,

2006.

Claimant filed a Response to Respondents' Supplemental Filing Regarding NASD jurisdiction on March 13, 2006.

Claimant filed a Motion to Enforce Sanctions on May 15, 2006.

Respondent filed a Motion for Sanctions and Response to Claimant's Motion to Enforce Sanctions on May 15, 2006.

Claimant filed a Response to Respondent's Motion for Sanctions on May 19, 2006.

### CASE SUMMARY

Claimant asserted the following causes of action, among others: violation of NYSE Rules 342, 401, and 405 and NASD Rules of Fair Practice, breach of contract, negligent misrepresentation, breach of fiduciary duty, negligence, and fraud. The causes of action relate to a collar on US LEC Company stock.

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, contributory negligence, statute of limitations, failure to mitigate, assumption of risk, laches, settlement, accord and satisfaction, and estoppel.

### RELIEF REQUESTED

Claimant in his Statement of Claim requested compensatory damages in excess of \$1,813,860.91, punitive damages in the amount of \$250,000.00, treble damages, costs, attorney's fees, and such other and different relief as the arbitration panel may deem appropriate.

Respondents in their Statement of Answer requested denial of monetary or other relief to Claimant, award Respondents attorneys' fees and cost, and award Respondents such other and further relief as may be just and proper.

### OTHER ISSUES CONSIDERED AND DECIDED

By Order dated March 23, 2006, the Panel ruled that NASD had jurisdiction over the arbitration.

At the hearing, the Motions for Sanctions were withdrawn and/or waived by the parties.

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. All claims against Respondents Wachovia and Suddreth are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. 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	= \$	600.00
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### 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	= \$	3,350.00
Pre-hearing process fee	= \$	750.00
<u>Hearing process fee</u>	<u>= \$</u>	<u>5,500.00</u>
Total Member Fees	= \$	9,600.00

### 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:

Three (3) Pre-hearing sessions with Panel @ \$ 1,200.00 = \$ 3,600.00  
 Pre-hearing conference:

September 6, 2005	1 session
March 23, 2006	1 session
May 4, 2006	1 session
	1 session

Eight (8) Hearing sessions @ \$ 1,200.00 = \$ 9,600.00

Hearing Date:	May 30, 2006	2 sessions
	May 31, 2006	2 sessions
	June 1, 2006	2 sessions
	June 2, 2006	2 sessions

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Total Forum Fees = \$ 13,200.00

1. The Panel has assessed \$ 5,400.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 7,800.00 of the forum fees jointly and severally to Respondents.

#### FEE SUMMARY

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

Initial Filing Fee	= \$	600.00
Forum Fees	= \$	5,400.00
Total Fees	= \$	6,000.00
Less payments	= \$	1,700.00
Balance Due NASD Dispute Resolution	= \$	4,300.00

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

Member Fees	= \$	9,600.00
Total Fees	= \$	9,600.00
Less payments	= \$	8,550.00
Balance Due NASD Dispute Resolution	= \$	1,050.00

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

Forum Fees	= \$	7,800.00
Total Fees	= \$	7,800.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	7,800.00

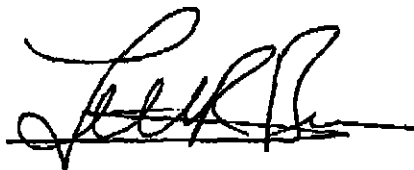
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

### ARBITRATION PANEL

Frederick R. Benson  
William P. Mitchell  
Duran G. McDonald

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

Concurring Arbitrators' Signatures



Frederick R. Benson  
Public Arbitrator, Presiding Chairperson

6-12-06

Signature Date

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William P. Mitchell  
Public Arbitrator, Panelist

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Signature Date

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Duran G. McDonald  
Non-Public Arbitrator, Panelist

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Signature Date

June 15, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Frederick R. Benson  
Public Arbitrator, Presiding Chairperson

Signature Date

William P. Mitchell  
William P. Mitchell  
Public Arbitrator, Panelist

6/10/06  
Signature Date

Duran G. McDonald  
Non-Public Arbitrator, Panelist

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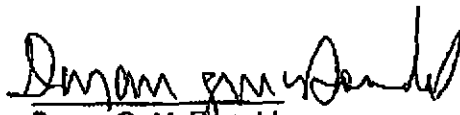
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Duran G. McDonald  
Non-Public Arbitrator, Panelist

6/12/06  
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Signature Date

June 15, 2006  
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