

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Niels William Bjerre, Jr., and Linda Marie Bjerre, Claimants v. Wachovia Securities, LLC, Respondent

Case Number: 05-02096

Hearing Site: San Francisco, California

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Nicholas P. Iavarone, Esq.
SimmonsCooper LLC
East Alton, Illinois

For Respondent:

G. Thomas Fleming III, Esq.
Robert J. Girard II, Esq.
Jones, Bell, Abbott, Fleming &
Fitzgerald LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: April 20, 2005

Claimants' Joint Uniform Submission Agreement signed: March 30, 2005

Statement of Answer filed by Respondent: July 14, 2005

Respondent's Uniform Submission Agreement signed: July 25, 2005

CASE SUMMARY

Claimants alleged breach of fiduciary duty, breach of contract, violation of the Securities Exchange Act, violation of the California Corporate Securities Law of 1968, and violation of the California Consumer Legal Remedy Act. Claimants' allegations involved stocks, including, but not limited to, Doubleclick, Phonecom, and AOL, in IRA accounts.

Respondent denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$624,771.00 in compensatory damages, unspecified exemplary damages, pre-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimants' Statement of Claim in its entirety, expungement of all references to this matter from Patrick Hitchcock's and Christopher David DeRoulet's CRD records, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On November 14, 2005, Respondent filed a Motion to Strike portions of Claimants' Statement of Claim. On December 6, 2005, Claimants filed a response. On December 16, 2005, Respondent filed a reply in support of its Motion to Strike. On January 16, 2006, the Panel held a telephonic conference with the parties to hear oral argument on this motion. After due deliberation, the Panel granted Respondent's Motion to Strike. The Panel ordered all references to the practices of Broker-Dealers other than Wachovia Securities LLC stricken from the Statement of Claim without prejudice.

At the hearing, Respondent requested that any award in favor of Claimants be offset by \$338,801 for potential class-action recovery by Claimants. Claimants opposed. After considering post-hearing submissions, the Panel, in executive session, denied Respondent's request.

The Panel did not decide Respondent's request for expungement of all references to this matter from Patrick Hitchcock's and Christopher David DeRoulet's CRD records because these two individuals were not parties in this matter.

The parties 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, testimony, evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimants the sum of \$295,822.00 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wachovia

Securities, LLC, is a party and the following fees are assessed:

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 assessed forum fees for each session conducted or each decision rendered on a discovery-related motion decided on the papers. 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:

(2) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
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Pre-hearing conferences:	February 6, 2006	1 session
	April 20, 2006	1 session

(3) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
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Pre-hearing conferences:	October 11, 2005	1 session
	January 16, 2006	1 session
	May 8, 2006	1 session

(16) Hearing sessions @ \$1,200.00/session	= \$19,200.00
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Hearings:	May 1, 2006	2 sessions
	May 2, 2006	2 sessions
	May 3, 2006	2 sessions
	May 4, 2006	2 sessions
	May 5, 2006	2 sessions
	November 27, 2006	2 sessions

November 28, 2006 2 sessions
November 29, 2006 2 sessions

Total Forum Fees	= \$23,700.00
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The Panel assessed \$23,700.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested audio transcripts @ \$15/tape	= \$ 255.00
Respondent requested audio transcripts @ \$15/tape	= \$ 255.00

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Administrative Costs</u>	<u>= \$ 255.00</u>
Total Fees	= \$ 630.00
<u>Less payments</u>	<u>= \$(1,955.00)</u>
Refund Due	= \$(1,325.00)

2. Respondent is charged with the following fees and costs:

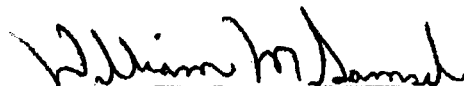
Member Fees	= \$ 7,000.00
Forum Fees	= \$23,700.00
<u>Administrative Costs</u>	<u>= \$ 255.00</u>
Total Fees	= \$30,955.00
<u>Less payments</u>	<u>= \$(7,255.00)</u>
Balance Due NASD Dispute Resolution	= \$23,700.00

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

ARBITRATION PANEL

William Michael Samsel	-	Public Arbitrator, Presiding Chair
Kenneth W. Gosliner	-	Public Arbitrator
Thomas H. O'Connor	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



William Michael Samsel
Chair, Public Arbitrator

12/30/06

Signature Date

Kenneth W. Gosliner
Public Arbitrator

Signature Date

Thomas H. O'Connor
Non-Public Arbitrator

Signature Date

1/3/07
Date of Service
(NASD Use Only)

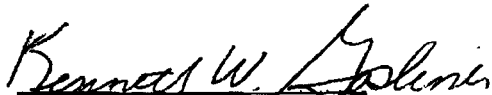
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Kenneth W. Gosliner	-	Public Arbitrator
Thomas H. O'Connor	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William Michael Samsel
Chair, Public Arbitrator

Signature Date


Kenneth W. Gosliner
Public Arbitrator

1-03-07
Signature Date

Thomas H. O'Connor
Non-Public Arbitrator

Signature Date

1/3/07
Date of Service
(NASD Use Only)

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Concurring Arbitrators' Signatures

William Michael Samsel
Chair, Public Arbitrator

Signature Date

Kenneth W. Gosliner
Public Arbitrator

Signature Date

Thomas H. O'Connor

Thomas H. O'Connor
Non-Public Arbitrator

December 29, 2006

Signature Date

1/3/07
Date of Service
(NASD Use Only)