

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Guy Slack (Claimant) v. Gregory Dupee and Wachovia Securities, LLC
(Respondent)

Case Number: 05-05339

Hearing Site: Philadelphia, Pennsylvania

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

REPRESENTATION OF PARTIES

Claimant Guy Slack, hereinafter referred to as "Claimant": Steven H. Berkowitz, Esq., and Daniel L. Petrelli, Esq., Steven H. Berkowitz and Assoc., f/k/a Moore & Berkowitz, New Town, PA.

Respondents Gregory Dupee ("Dupee") and Wachovia Securities, LLC ("Wachovia") hereinafter collectively referred to as "Respondents": Andrew Park, Esq., Wachovia Securities, LLC Legal Division, Richmond, VA.

CASE INFORMATION

Statement of Claim filed on or about: October 12, 2005.

Claimant signed the Uniform Submission Agreement: October 11, 2005.

Joint Statement of Answer filed by Respondents on or about: February 15, 2006.

Dupee signed the Uniform Submission Agreement: February 10, 2006.

Wachovia signed the Uniform Submission Agreement: February 14, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract and implied covenant of fair dealing, breach of fiduciary duty, unauthorized trading, violation of NASD Conduct Rule 2110 and NYSE Business Conduct Rule 401, violation of the NASD Suitability Rule 2310 and of NYSE "Know Your Customer" Rule 405, violation of Pennsylvania Unfair Trade Practices and Consumer Protection Act, failure to supervise, negligence, over-concentration, misrepresentation, common law fraud, unjust enrichment, and fraudulent inducement.

Claimant's claims involved equities and equity-based mutual funds including: Van Kampen Enterprise, the Oppenheimer Global, the Franklin Strategic and the MFS Emerging Growth.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$150,000.00, treble damages, punitive damages, attorneys' fees, costs and expenses, and any additional award the Panel deems just and equitable.

Respondents requested that Claimant's be denied in their entirety and expungement of Dupee's CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant accepted the Panel but raised objections to the NASD arbitral forum on constitutional grounds.

During the hearings Respondents moved for a directed verdict. After due deliberation, the Panel denied the Motion.

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, and the post-hearing submissions if any, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$40,000.00.
2. Respondent Dupee's request for expungement is denied.
3. Any and all relief not specifically addressed herein, including punitive and treble damages, is denied.

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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Wachovia Securities, LLC is a party.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00
Pre-hearing conference: May 23, 2006 1 session

Five (5) Hearing sessions @ \$1,125.00 = \$5,625.00
Hearing Dates: December 5, 2006 1 session
December 6, 2006 2 sessions
December 7, 2006 2 sessions

Total Forum Fees = \$6,750.00

1. The Arbitrator Panel has assessed \$3,375.00 of the forum fees against Claimant.
2. The Arbitrator Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$3,375.00</u>
Total Fees	= \$3,675.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

2. Respondent Wachovia is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents Dupee and Wachovia are jointly and severally liable for:

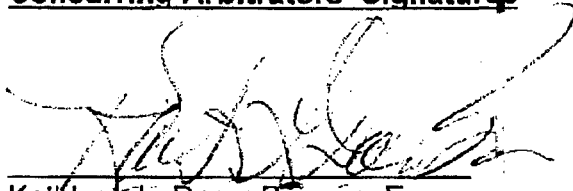
<u>Forum Fees</u>	= \$3,375.00
<u>Total Fees</u>	= \$3,375.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,375.00

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

ARBITRATION PANEL

Kathleen L. Daerr-Bannon, Esq.	-	Public Arbitrator, Presiding Chairperson
Rochelle K. Kaplan, Esq.	-	Public Arbitrator
Dale A. Pope	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Kathleen L. Daerr-Bannon, Esq.
Public Arbitrator, Presiding Chairperson

1/8/07
Signature Date

Rochelle K. Kaplan, Esq.
Public Arbitrator

Signature Date

Dale A. Pope
Non-Public Arbitrator

Signature Date

January 8, 2007
Date of Service (For NASD Dispute Resolution use only)

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