

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

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In the Matter of the Arbitration Between:

Jerry C. Neal and Phyllis A. Neal (Claimants) vs. Wachovia Securities, LLC  
(Respondent)

Case Number: 06-01001

Hearing Site: Cleveland, Ohio

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants Jerry C. Neal ("J. Neal") and Phyllis A. Neal ("P. Neal") hereinafter collectively referred to as "Claimants": Kevin Thomas Roberts, Esq., The Roberts Law Firm, Cleveland, OH.

Respondent Wachovia Securities, LLC hereinafter referred to as "Respondent": Todd Ratner, Esq., Wachovia Securities, LLC, Richmond, VA, and Anne M. Followell, Esq., Ulmer & Berne LLP, Columbus, OH.

**CASE INFORMATION**

Statement of Claim filed on or about: February 17, 2006.  
J. Neal signed the Uniform Submission Agreement: March 11, 2006.  
P. Neal signed the Uniform Submission Agreement: March 11, 2006.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: May 18, 2006.  
Respondent signed the Uniform Submission Agreement: May 17, 2006.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, suitability, misrepresentations, and failure to supervise. The causes of action relate to Charter Communications, MCI Worldcom, ECI Telecommunications, Electronic Data Systems, Leap Wireless International, LCC International, LSI Logic Corporation, Qwest Communications, Tangram Enterprise Solutions, Orckit Communications, and Talk.com stocks.

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in an amount in excess of \$250,000.00 plus interest, costs, forum fees, filing fees, attorneys' fees, and any other relief the Panel deems just and equitable.

Respondent requested dismissal of the Statement of Claim in its entirety, forum fees, and any other relief the Panel deems just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

During the hearing Respondent moved to dismiss Claimants' claims on two separate occasions. After due deliberation, the Panel denied both of Respondent's Motions to Dismiss.

During the hearing Respondent moved to preclude Claimants' expert from testifying because the expert was not timely disclosed as a witness and was not qualified as an expert witness. After due deliberation, the panel denied Respondent's Motion to Preclude.

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. Claimants' claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive 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
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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 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. 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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: August 8, 2006	1 session
September 7, 2006	1 session

Six (6) Hearing sessions with Panel @ \$1,125.00	= \$ 6,750.00
Hearing dates: January 23, 2007	2 sessions
January 24, 2007	2 sessions
January 25, 2007	2 sessions

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Total Forum Fees	= \$ 9,000.00
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1. The Panel has assessed \$4,500.00 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$4,500.00 of the forum fees to Respondent.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 4,800.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

2. Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 9,700.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

NASD Dispute Resolution

Arbitration No. 06-01001

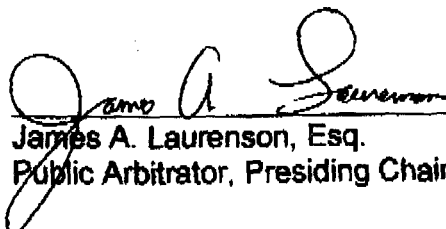
Award Page 4 of 5

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

**ARBITRATION PANEL**

James A. Laurenson, Esq.	-	Public Arbitrator, Presiding Chairperson
John T. Meredith	-	Public Arbitrator
Henry Ott-Hansen	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
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James A. Laurenson, Esq.  
Public Arbitrator, Presiding Chairperson

2/5/07  
\_\_\_\_\_  
Signature Date

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John T. Meredith  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Henry Ott-Hansen  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

February 5, 2007

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Date of Service (For NASD Dispute Resolution use only)

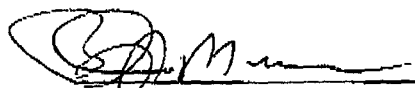
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