

**AWARD
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Names of Claimants

A. Dan Flannery and Tolman Flannery

vs.

Case Number: 06-04869
Hearing Site: Chicago, Illinois

Names of Respondents

Wachovia Securities, LLC and
William Ray Muehlhauser, II

NATURE OF THE DISPUTE

Customers vs. Member and Associated Person

REPRESENTATION OF PARTIES

A. Dan Flannery and Tolman Flannery ("Claimants") were represented by Laurence M. Landsman, Esq., Block & Landsman, Chicago, Illinois.

Wachovia Securities, LLC ("Wachovia") and William Ray Muehlhauser, II ("Muehlhauser"), hereinafter collectively referred to as "Respondents," were represented by Andrew R. Park, Esq., Wachovia Securities, LLC, Richmond, Virginia.

CASE INFORMATION

The Statement of Claim was filed on or about November 9, 2006. The Submission Agreement of Claimants, A. Dan Flannery and Tolman Flannery, was signed on or about October 31, 2006. Claimants filed a Response to the Motion to Dismiss on or about February 26, 2007.

The Statement of Answer was filed jointly by Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, on or about February 2, 2007. The Submission Agreement of Respondent, Wachovia Securities, LLC, was signed on or about February 2, 2007. The Submission Agreement of Respondent, William Ray Muehlhauser, II, was signed on or about February 1, 2007. Respondents filed a Motion to Dismiss on or about February 2, 2007. Respondents filed a Reply in Support of the Motion to Dismiss on or about March 2, 2007.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; breach of contract; failure to supervise; negligence; control person liability; and violation of the Illinois Consumer Fraud Act. The causes of action related to the recommendation and purchase of various securities. Claimants alleged that Respondents' recommendation for Claimants to borrow substantial sums on margin to fund the purchase of securities was inappropriate due to their inexperience with margin as well as their conservative investment objectives. Claimants also alleged that Muehlhauser failed to explain the significant risks that were associated with the type of margin use he recommended in addition to the risks associated with the concentration of securities. Claimants asserted that Muehlhauser's failures proved disastrous for Claimants, which resulted in the accounts being wiped out.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the applicable statute of limitations and repose; Claimants expressly ordered, approved, authorized, and ratified the acts and transactions of which they now complain; Claimants' claims for damages are due solely due to market conditions; Claimants assumed the risk of loss associated with the transactions at issue; Respondents did not proximately cause Claimants' alleged damages; and Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$300,000.00
Exemplary/Punitive Damages	\$100,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On March 27, 2007, the Panel issued an Order denying Respondents' Motion to Dismiss.

At the final hearing, Respondents made a Motion to Dismiss based on statute of repose. Claimant maintained positional briefing. The Panel denied the motion.

The Panel requested that the Claimant file a post-hearing submission specifically regarding attorneys' fees and expert witness' fees no later than October 22, 2007. Respondents were given until October 26, 2007, to file a Response to the post-hearing submission.

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

- 1.) Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, are jointly and severally liable for and shall pay to Claimants, A. Dan Flannery and Tolman Flannery, the sum of \$140,000.00 in compensatory damages;
- 2.) Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, are jointly and severally liable for and shall pay to Claimants, A. Dan Flannery and Tolman Flannery, interest on the above-stated sum at the rate of 5% per annum from and including December 31, 2000, through and including the date the Award is paid in full;
- 3.) Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, are jointly and severally liable for and shall pay to Claimant, A. Dan Flannery and Tolman Flannery, the sum of \$90,000.00 in punitive damages;
- 4.) Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, are jointly and severally liable for and shall pay to Claimant, A. Dan Flannery and Tolman Flannery, the sum of \$5,759.25 in costs for expert witness fees;
- 5.) Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, are jointly and severally liable for and shall pay to Claimant, A. Dan Flannery and Tolman Flannery, the sum of \$57,900.00 in attorneys' fees; and
- 6.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain the non-refundable filing fee 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. In this matter, the member firm is Wachovia Securities, LLC.

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 hearing session conducted or each decision rendered on a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. 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) Decision on a contested motion for the issuance of a subpoena
with one (1) arbitrator @ \$200.00 (maximum of \$600) = \$ 200.00

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: July 26, 2007 1 session

Two (2) Pre-hearing sessions with Panel x \$1,125.00 = \$ 2,250.00
Pre-hearing conferences: February 16, 2007 1 session
March 26, 2007 1 session

Six (6) Hearing sessions x \$1,125.00 = \$ 6,750.00
Hearing Dates: October 9, 2007 2 sessions
October 10, 2007 2 sessions
October 11, 2007 2 sessions

Total Forum Fees = \$ 9,650.00

The Panel has assessed \$9,650.00 of the forum fees jointly and severally to Wachovia Securities, LLC and William Ray Muehlhauser, II.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters and security.

Wachovia Securities, LLC, requested copies = \$ 36.50

FEE SUMMARY

Claimants, A. Dan Flannery and Tolman Flannery, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimants</u>	= \$ 1,125.00

Respondent, Wachovia Securities, LLC, is liable for:

<u>Administrative Costs</u>	= \$ 36.50
<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,236.50
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due FINRA Dispute Resolution</u>	= \$ 36.50

Respondents, Wachovia Securities, LLC and William Ray Muehlhauser, II, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 9,650.00
<u>Total Fees</u>	= \$ 9,650.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due FINRA Dispute Resolution</u>	= \$ 9,650.00

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Ronald B. Schwartz - Public Arbitrator, Presiding Chair
Ann Breen-Greco - Public Arbitrator
Michael Stephen Knight - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Ronald B. Schwartz
Ronald B. Schwartz
Public Arbitrator, Presiding Chair

November 8, 2007
Signature Date

/s/ Ann Breen-Greco
Ann Breen-Greco
Public Arbitrator

November 8, 2007
Signature Date

/s/ Michael Stephen Knight
Michael Stephen Knight
Non-Public Arbitrator

November 8, 2007
Signature Date

November 8, 2007
Date of Service (For FINRA office use only)

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Ann Breen-Greco - Public Arbitrator
Michael Stephen Knight - Non-Public Arbitrator

Concurring Arbitrators' Signatures.



Ronald B. Schwartz
Public Arbitrator, Presiding Chair

11/8/2007
Signature Date

Ann Breen-Greco
Public Arbitrator

Signature Date

Michael Stephen Knight
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Ronald Breen Greco

Ann Breen-Greco
Public Arbitrator

Signature Date

11/8/07

Signature Date

Michael Stephen Knight
Non-Public Arbitrator

Signature Date

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