

**Award  
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant  
Gillman Family Trust

Case Number: 12-00996

vs.

Respondents  
Wachovia Securities, LLC  
d/b/a Wells Fargo Advisors, LLC  
Shirley Polidori

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Claimant Gillman Family Trust: Lars K. Soreide, Esq., Soreide Law Group, PLLC, Fort Lauderdale, Florida.

For Respondents Wachovia Securities, LLC d/b/a Wells Fargo Advisors, LLC ("Wachovia") and Shirley Polidori ("Polidori"): Nuviah Shirazi, Senior Legal Counsel, Wells Fargo Law Department, Wells Fargo Advisors, LLC, St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: March 14, 2012.  
Gillman Family Trust signed the Submission Agreement: March 9, 2012.

Statement of Answer filed by Respondents on or about: June 6, 2012.  
Shirley Polidori signed the Submission Agreement: April 23, 2012.  
Wachovia Securities, LLC d/b/a Wells Fargo Advisors, LLC signed the Submission Agreement: June 5, 2012.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; breach of fiduciary duty; negligent supervision; breach of contract; and, fraud. The causes of action relate to Claimant's investment in Fannie Mae preferred stock, FNMA PFD PERP SER S 8.25%.

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

### RELIEF REQUESTED

In the Statement of Claim, Claimant requested: compensatory damages in the amount of approximately \$50,000.00; punitive damages; interest; costs; and, any further relief deemed just and proper by the Arbitrator.

At the close of the hearing, Claimant requested rescission.

In their Statement of Answer, Respondents did not specifically delineate a relief request.

During the evidentiary hearing, Respondent Polidori requested expungement of all references to this matter from her Central Registration Depository ("CRD") record.

### OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

### AWARD

After considering the pleadings, the testimony and evidence presented during the recorded in-person evidentiary hearing, and the post-hearing submissions (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Wachovia is liable on the claims of negligence, negligent supervision, fraud and breach of contract. Therefore an award of rescission is entered against Respondent Wachovia. Respondent Wachovia shall repurchase from Claimant for their original purchase price the following securities:

<u>Security</u>	<u>Number of Shares</u>	<u>Purchase Date</u>	<u>Purchase Price</u>
FNMA PFD PERP SER S 8.25%	202	04/16/08	\$ 5,007.58
FNMA PFD PERP SER S 8.25%	738	04/16/08	\$18,293.14
FNMA PFD PERP SER S 8.25%	391	04/18/08	\$ 9,976.00
FNMA PFD PERP SER S 8.25%	600	05/21/08	\$15,122.98
<b>Total:</b>	<b>1931</b>		<b>\$48,399.70</b>

Respondent Wachovia is not liable on the claim of breach of fiduciary duty.

All claims asserted against Respondent Polidori are denied.

The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Polidori's registration records maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, Respondent Polidori must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional

party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (the "Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

Respondent Wachovia's liability was predicated on the manner in which it marketed Fannie Mae preferred stock to Claimant. Respondent Polidori testified that she marketed the securities in question by reference to research information provided to her by Respondent Wachovia. I was impressed by Respondent Polidori's candor, professionalism, and apparent concerns for and loyalty to her client, and believe that she marketed the securities based on the research information provided to her by her firm, and that she accurately conveyed that information to Claimant. No evidence was introduced by Respondent Wachovia to the contrary. Under these circumstances, I find that: (i) Respondent Polidori was not responsible for the actions upon which liability was predicated; (ii) "the claim, allegation or information is false" [within the meaning of 2080(b)(1)(C)] as to Respondent Polidori; and, (iii) expungement is consistent with and in the interests of fairness.

Any and all relief not specifically addressed herein, including Claimant's request for punitive damages, is denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

FINRA Dispute Resolution assessed a filing fee\* for each claim:

Initial Claim Filing fee = \$ 600.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent Wachovia is assessed the following:

Member Surcharge = \$ 875.00  
Pre-Hearing Processing Fee = \$ 750.00  
Hearing Processing Fee = \$ 1,000.00

#### Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session 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:

One (1) Pre-hearing session with the Arbitrator @ \$450.00/session = \$450.00  
Pre-hearing conference: August 1, 2012 1 session

Two (2) Hearing sessions @ \$450.00/session = \$900.00  
Hearing Date: January 15, 2013 2 sessions

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Total Hearing Session Fees = \$1,350.00

The Arbitrator has assessed the total hearing session fees of \$1,350.00 solely to Respondent Wachovia.

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

**ARBITRATOR**

Steven Ira Weinberger

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**

/s/

\_\_\_\_\_  
Steven Ira Weinberger  
Sole Public Arbitrator

February 1, 2013

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

February 6, 2013

\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution office use only)

FINRA Dispute Resolution  
Arbitration No. 12-00996  
Award Page 5 of 5

**ARBITRATOR**

Steven Ira Weinberger

- Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**



\_\_\_\_\_  
Steven Ira Weinberger  
Sole Public Arbitrator

February 1, 2013

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

\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution office use only)