

**COPY**

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Leroy Viersen, Patricia Viersen, and Jessie H. Watts, Claimants v. Interfirst Capital Corporation and Douglas Wright, Respondents

Case Number: 00-03653

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Raymond R. Prazen, Esq.  
Prazen & Associates  
El Cajon, California

For Respondents:

Robert A. Uhl, Esq.  
Robert A. Uhl, Inc.  
Beverly Hills, California

**CASE INFORMATION**

Statement of Claim filed: August 15, 2000

Claimants' Uniform Submission Agreements signed: July 1, 2000

Claimants' Response to Respondents' Motion to Dismiss filed: November 10, 2000

Claimants' Second Response to Respondents' Motion to Dismiss filed: March 14, 2001

Joint Statement of Answer and Motion to Dismiss filed by Respondents Interfirst Capital Corporation and Douglas Wright: November 3, 2000

Respondent Interfirst Capital Corporation's Response to Claimants' Second Response to Motion to Dismiss filed: March 15, 2001

Respondents Interfirst Capital Corporation's and Douglas Wright's Uniform Submission Agreements signed: November 6, 2000

**CASE SUMMARY**

Claimants alleged breach of contract, breach of duty of good faith and fair dealing, and fraudulent misrepresentation in regard to recovery of legal fees and costs expended by Claimants in reference to a prior arbitration Award.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$25,000.00 in compensatory damages, \$100,000.00 in punitive damages, and reimbursement for arbitration costs.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and an order expunging any reference of the Claim on Respondents' CRD Records. In addition, Respondents sought reimbursement for attorney's fees and arbitration costs.

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

On February 8, 2001, NASD Dispute Resolution, Inc. received notification that Claimants dismissed Respondent Douglas Wright without prejudice.

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, and hearing oral arguments from the parties on Respondent Interfirst Capital Corporation's Motion to Dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Interfirst Capital Corporation's Motion to Dismiss is granted.
- 2) Claimants' Statement of Claim is dismissed without prejudice.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 0.00
Fee Waived by NASD Dispute Resolution, Inc.	

#### **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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Interfirst Capital Corporation is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 2,500.00
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

2 Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences:     March 12, 2001     1 session	
March 22, 2001     1 session	

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<b>Total Forum Fees</b>	<b>= \$ 2,250.00</b>
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The Panel assessed \$ 2,250.00 of the forum fees jointly and severally to Claimants Leroy Viersen, Patricia Viersen, and Jessie H. Watts.

**Fee Summary**

1. Claimants Leroy Viersen, Patricia Viersen, and Jessie H. Watts are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 2,250.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 2,550.00</b>

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

Member Fees	= \$ 4,600.00
<u>Less Payments</u>	= \$(2,100.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 2,500.00</b>

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

ARBITRATION PANEL

Daniel K. Donahue, Esq.	-	Public Arbitrator, Presiding Chair
James P. Murphy	-	Public Arbitrator
Kelly A. Barker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Daniel K. Donahue, Esq.  
Chair, Public Arbitrator

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

\_\_\_\_\_  
James P. Murphy  
Public Arbitrator

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

  
\_\_\_\_\_  
Kelly A. Barker  
Non-Public Arbitrator

8/21/01  
\_\_\_\_\_  
Signature Date

8/30/01  
\_\_\_\_\_  
Date of Service


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James P. Murphy	-	Public Arbitrator
Kelly A. Barker	-	Non-Public Arbitrator

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James P. Murphy  
Public Arbitrator

8/22/01  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Kelly A. Barker  
Non-Public Arbitrator

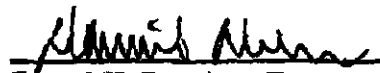
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