

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paula Whitsell, Claimant v. Wells Fargo Securities, Inc., Respondent

Case Number: 00-04730

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

Philip M. Aidikoff, Esq.
Aidikoff & Uhl
Beverly Hills, California

For Respondent:

Michael Lawson, Esq.
Steeffel Levitt & Weiss
San Francisco, California

CASE INFORMATION

Statement of Claim filed: October 23, 2000

Claimant's Uniform Submission Agreement filed: October 23, 2000

Statement of Answer filed by Respondent: January 9, 2001

Respondent's Uniform Submission Agreement signed: February 15, 2001

CASE SUMMARY

Claimant alleged wrongful conduct/termination, defamation on Form U-4, defamation per se, breach of employment contract, and breach of implied covenant.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested actual, consequential, general, special, and incidental damages of not less than \$587,394.00, unspecified punitive damages, interest, and arbitration costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety, and arbitration costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, the Arbitration Panel denied Claimant's Motion to Exclude Respondent's Exhibits E-H.

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

- 1) Respondent Wells Fargo Securities, Inc. is liable to and shall pay Claimant Paula Whitsell \$900,000.00 in actual damages.
- 2) Respondent Wells Fargo Securities, Inc. is liable to and shall pay Claimant Paula Whitsell \$250,000.00 in attorney's fees pursuant to contract and based on case law cited by Claimant.
- 3) Respondent Wells Fargo Securities, Inc. is ordered to amend the U-4 Form for Paul Whitsell to add the following language: "Paula Whitsell was arrested and indicted because of an error committed by Wells Fargo Bank and through no fault of Paula Whitsell."
- 4) Claimant's request for punitive damages is denied.
- 5) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 6) 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wells Fargo Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

Adjournment Fees

The following adjournment fees are assessed:

Hearing Dates, March 18, 2002 – March 21, 2002 adjournment requested by Claimant	= \$ 1,200.00
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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:

1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: July 17, 2001 1 session	
14 Hearing sessions @ \$ 1,200.00/session	= \$16,800.00
Hearings: July 29, 2002 3 sessions	
July 30, 2002 3 sessions	
July 31, 2002 2 sessions	
October 17, 2002 3 sessions	
October 18, 2002 3 sessions	
Total Forum Fees	= \$18,000.00

The Panel assessed \$ 18,000.00 of the forum fees to Respondent Wells Fargo Securities, Inc.

Fee Summary

1. Claimant Paula Whitsell is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Adjournment Fee</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 1,575.00
<u>Less payments</u>	<u>= \$(2,700.00)</u>
Refund Due Claimant	= \$(1,125.00)

2. Respondent Wells Fargo Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	<u>= \$18,000.00</u>
Total Fees	= \$24,100.00
<u>Less payments</u>	<u>= \$(7,300.00)</u>
Balance Due NASD Dispute Resolution	= \$16,800.00

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

ARBITRATION PANEL

Anita Rae Shapiro	-	Public Arbitrator, Presiding Chair
Jennifer T. Messersmith, Esq.	-	Public Arbitrator
Bernadotte P. Lester	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Anita Rae Shapiro
Chair, Public Arbitrator

November 14, 2002
Signature Date


Jennifer T. Messersmith, Esq.
Public Arbitrator

November 14, 2002
Signature Date

Bernadotte P. Lester
Non-Public Arbitrator

Signature Date

11/14/02
Date of Service

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