

**Revised Stipulated Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Name of the Claimant  
William R. Whitehurst

Case Number: 02-05404

Name of the Respondent  
Legg Mason Wood Walker, Inc.

Hearing Site: Baltimore, MD

---

**REPRESENTATION OF PARTIES**

Claimant/Counterclaim-Respondent, William R. Whitehurst (Claimant), was represented by John H. West III, Esq. and James H. West, Esq., West & Moore, LLC, Baltimore, MD.

Respondent/Counterclaim-Claimant, Legg Mason Wood Walker, Inc. ("Respondent"), was represented by Jason W. Gaarder, Esq., Associate General Counsel for Legg Mason Wood Walker, Inc..

**CASE INFORMATION**

Statement of Claim filed on or about September 10, 2002.

Claimant signed the Uniform Submission Agreement on September 9, 2002.

Statement of Answer and Counterclaim filed by Respondent on December 18, 2002.

A representative for Respondent signed the Uniform Submission Agreement on December 18, 2002.

Claimant filed a Statement of Answer to Respondent's Counterclaim and a Motion to Dismiss on January 16, 2003.

Respondent filed a Response to the Motion to Dismiss the Counterclaim on May 22, 2003.

**CASE SUMMARY**

Claimant alleged that the Form U-5 filed by Respondent with the NASD following the termination of his employment with Respondent was defamatory in nature.

In its answer, Respondent denied allegations, asserted affirmative defenses and requested that the

claim be dismissed in its entirety. Respondent also asserted two counterclaims. The first counterclaim sought reimbursement of sums paid by Respondent to one of Claimant's clients arising out of an alleged error in that client's account. The second counterclaim sought an affirmative award of all attorney's fees and costs expended in defending Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested that the Form U-5 filed by Respondent be ordered expunged from his CRD; that his CRD be ordered to state that his resignation from Respondent was voluntary; that he be awarded compensatory damages in an amount to be determined by the Panel, attorney's fees, costs and such other and further relief as justice may require. In response to Respondent's counterclaims, Claimant requested dismissal and denial thereof.

Respondent requested dismissal of Claimant's Statement of Claim; an award of costs and expenses incurred in defending Claimant's claim, and; such other relief as is just and proper. In the two counterclaims, Respondent requested the sum of \$8,014.69 plus statutory interest through the date of the award, and; all attorney's fees, cost and expenses expended by Respondent in connection with the defense of Claimant's Statement of Claim.

**Claimant requested:**

|                      |                    |
|----------------------|--------------------|
| Compensatory Damages | amount unspecified |
| Interest             | amount unspecified |
| Attorneys' Fees      | amount unspecified |
| Other Costs          | amount unspecified |

**Respondent requested:**

|                      |                    |
|----------------------|--------------------|
| Compensatory Damages | \$8,014.69         |
| Attorney's Fees      | amount unspecified |
| Interest             | amount unspecified |
| Other Costs          | amount unspecified |

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

A Hearing was held in this matter on July 15, 2003 at which the parties proffered evidence in connection with their request that the Panel enter a Stipulated Award in this matter.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends that the Form U-5 filed by Legg Mason on or about September 24, 2001 in connection with the termination of Mr. Whitehurst's employment at Legg Mason be expunged and amended to state that the termination of Mr. Whitehurst's employment at Legg Mason was as a result of a "Voluntary Resignation";

1. The Panel recommends that the Form U-5 filed by Respondent on or about September 24, 2001 in connection with the termination of Claimant's employment at Legg Mason be expunged and amended to state that the termination of Claimant's employment at Legg Mason was as a result of a "Voluntary Resignation";
2. All other claims for relief by Claimant are denied in their entirety;
3. All counterclaims by Legg Mason are denied in their entirety;
4. Any and all relief requested by either party and not specifically granted herein is denied, and;
5. Except as otherwise specified below, each party shall bear its own costs and attorney's fees.

#### **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 | = \$250.00 |
| Counter claim filing fee | = \$500.00 |

##### **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 event giving rise to the dispute. Accordingly Legg Mason is a party.

|                         |              |
|-------------------------|--------------|
| Member surcharge        | = \$1,500.00 |
| Pre-hearing process fee | = \$ 750.00  |
| Hearing process fee     | = \$2,200.00 |

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

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

|  |              |
|--|--------------|
| Two (2) Pre-hearing sessions with Panel @ \$1,000.00 | = \$2,000.00 |
| Pre-hearing conferences April 30, 2003 1 session     |              |

June 16, 2003

1 session

|                                      |              |
|--------------------------------------|--------------|
| One (1) Hearing session @ \$1,000.00 | = \$1,000.00 |
| Hearing Date(s): July 15, 2003       | 1 session    |
| Total Forum Fees                     | = \$3,000.00 |

1. The Panel has assessed \$1,500.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,500.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant, is assessed and shall pay:

|                                     |               |
|-------------------------------------|---------------|
| Initial Filing Fee                  | = \$ 250.00   |
| Forum Fees                          | = \$ 1,500.00 |
| Total Fees                          | = \$ 1,750.00 |
| Less payments                       | = \$ 1,250.00 |
| Balance Due NASD Dispute Resolution | = \$ 500.00   |

2. Respondent is assessed and shall pay:

|                                     |               |
|-------------------------------------|---------------|
| Filing Fee                          | = \$ 500.00   |
| Member Fees                         | = \$ 4,450.00 |
| Forum Fees                          | = \$ 1,500.00 |
| Total Fees                          | = \$ 6,450.00 |
| Less payments                       | = \$ 5,200.00 |
| Balance Due NASD Dispute Resolution | = \$ 1,250.00 |

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


**ARBITRATION PANEL**

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| Gerald Scher, Esq.       | - | Public, Presiding Chairperson   |
| Edgar T. Bellinger, Esq. | - | Public Arbitrator, Panelist     |
| C. Gregory Ellison       | - | Non-Public Arbitrator, Panelist |

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Gerald Scher, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Edgar T. Bellinger, Esq.  
Public Arbitrator, Panelist

8/19/03  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
C. Gregory Ellison, Esq.  
Non-Public Arbitrator, Panelist

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

08/05/03  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

Served Revised Award 9/19/03

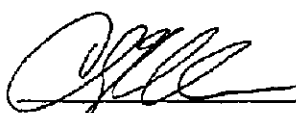
Concurring Arbitrators' Signatures

\_\_\_\_\_  
Gerald Scher, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Edgar T. Bellinger, Esq.  
Public Arbitrator, Panelist

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

  
C. Gregory Ellison, Esq.  
Non-Public Arbitrator, Panelist

8-27-03  
Signature Date

08/05/03  
Date of Service (For NASD Dispute Resolution office use only)

Served Revised Award 9/19/03

Concurring Arbitrators' Signatures



Gerald Scher, Esq.  
Public Arbitrator, Presiding Chairperson

8/29/03

Signature Date

\_\_\_\_\_  
Edgar T. Bellinger, Esq.  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
C. Gregory Ellison, Esq.  
Non-Public Arbitrator, Panelist

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

08/05/03

Date of Service (For NASD Dispute Resolution office use only)