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

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In the Matter of the Arbitration Between:

Names of the Claimants

William W. Khoenle  
E. Marlene Khoenle

Case Number: 02-07037

Names of the Respondents

Signator Investors, Inc.  
Dean Nowak

Hearing Site: Orlando, Florida

Customer v. Member and Associated Person

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**REPRESENTATION OF PARTIES**

For William W. Khoenle and E. Marlene Khoenle, hereinafter collectively referred to as "Claimants": Neal J. Blaher, Esq., Law Office of Neal J. Blaher, Orlando, Florida.

For Signator Investors, Inc., referred to as "Respondent Signator": Frederick W. Keuthen, Senior Counsel with John Hancock Financial Services, Boston, Massachusetts.

For Dean Nowak, hereinafter referred to as "Respondent Nowak": Lloyd R. Schwed, Esq. and Douglas A. Kahle, Esq., Kubicki Draper, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: November 18, 2002.

Claimant William W. Khoenle signed the Uniform Submission Agreement: December 10, 2002.

Claimant E. Marlene Khoenle signed the Uniform Submission Agreement: December 10, 2002.

Respondent Signator's Statement of Answer and Crossclaim against Respondent Nowak filed on or about: January 27, 2003.

Respondent Nowak's Statement of Answer and Motion to Dismiss Statement of Claim filed on or about: March 3, 2003.

Respondent Signator's Motion to Dismiss Statement of Claim filed on or about: May 23, 2003.

Claimants' Responses to Motions to Dismiss filed on or about: March 10, 2003 and May 14, 2003.

Respondent Nowak signed the Uniform Submission Agreement: May 22, 2003.

Respondent Signator signed the Uniform Submission Agreement: December 24, 2002.

### **CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) misrepresentation; 3) unsuitability; 4) fraud; 5) violation of Sections 517.301 and 517.211(3) and (4), Florida Statutes; and 6) failure to supervise. The causes of action relate to investment in a John Hancock Variable Life Insurance Policy.

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

Respondent Signator asserted a Crossclaim for indemnification against Respondent Nowak.

### **RELIEF REQUESTED**

Claimants requested: 1) compensatory damages in the amount of \$16,000.00; 2) disgorgement of all commissions and any other forms of compensation; 3) pre-judgment interest; 4) costs; 5) attorney's fees; 6) punitive damages; and 7) such other relief as the undersigned arbitrator (the "Arbitrator") deemed just and proper.

Respondent Signator requested: 1) the Statement of Claim be denied; 2) that Respondent Nowak be found liable to Respondent Signator for any award against Respondent Signator due to misrepresentation or other statutory or common law violations committed by Respondent Nowak; and 3) costs.

Respondent Nowak requested: 1) dismissal of all claims in their entirety; 2) costs; 3) attorneys' fees; and 4) expungement of all references to the above-captioned arbitration proceeding from Respondent Nowak's registration records maintained by the NASD Central Registration Depository ("CRD").

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

Claimants filed their arbitration claim against John Hancock Variable Life Insurance Company ("John Hancock"). John Hancock is not a member firm of NASD, did not file with NASD Dispute Resolution a properly executed submission to arbitration and declined to submit to arbitration before NASD Dispute Resolution.

On or about June 4, 2003, the Arbitrator denied the motion to dismiss raised in Respondent Nowak's Statement of Answer.

The parties have entered into a Settlement Agreement and have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered. The parties have agreed to receive conformed copies of the Stipulated Award while the original(s) remain on file with NASD Dispute Resolution.

### **AWARD**

After considering the parties' submissions and upon learning of the parties Settlement Agreement, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator accepts the Claimants' withdrawal of their claims, and Respondents are dismissed from this matter with prejudice.
2. The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Nowak's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Nowak must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 125.00
Crossclaim filing fee	= \$ 750.00

#### **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. Accordingly, Respondent Signator is a member firm and party.

Member Surcharge	= \$ 425.00
Total Member Fees	= \$ 425.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$ 450.00 per session = \$ 450.00  
Pre-hearing conference: May 14, 2003 1 session

The Panel has assessed \$112.50 of the forum fees to Claimant William W. Khoenle.

The Panel has assessed \$112.50 of the forum fees to Claimant E. Marlene Khoenle.

The Panel has assessed \$112.50 of the forum fees to Respondent Signator.

The Panel has assessed \$112.50 of the forum fees to Respondent Nowak.

**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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 125.00
<u>Total Fees</u>	= \$ 125.00
<u>Less payments</u>	= \$ 125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant William W. Khoenle is solely liable for:

<u>Forum Fees</u>	= \$ 112.50
<u>Total Fees</u>	= \$ 112.50
<u>Less payments</u>	= \$ 112.50
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant E. Marlene Khoenle is solely liable for:

<u>Forum Fees</u>	= \$ 112.50
<u>Total Fees</u>	= \$ 112.50
<u>Less payments</u>	= \$ 112.50
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Signator is solely liable for:

Crossclaim Filing Fee	= \$ 750.00
Member Fees	= \$ 425.00

<u>Forum Fees</u>	= \$ 112.50
Total Fees	= \$1,287.50
<u>Less payments</u>	= \$1,287.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Nowak is solely liable for:

<u>Forum Fees</u>	=\$ 112.50
Total Fees	=\$ 112.50
<u>Less payments</u>	=\$ 0.00
Balance Due NASD Dispute Resolution	=\$ 112.50

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

**Parties' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Neal J. Blaher, Esq.  
Counsel for Claimants

\_\_\_\_\_  
October 13, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Frederick W. Keuthen, Esq.  
Counsel for Respondent Signator

\_\_\_\_\_  
October 14, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Lloyd R. Schwed, Esq.  
Counsel for Respondent Nowak

\_\_\_\_\_  
October 20, 2003  
Signature Date

**ARBITRATION PANEL**

Floyd A. Hillstrom, Esq.

- Sole Public Arbitrator

**Sole Public Arbitrator**

\_\_\_\_\_/s/\_\_\_\_\_  
Floyd A. Hillstrom, Esq.  
Sole Public Arbitrator

\_\_\_\_\_  
October 21, 2003  
Signature Date

October 21, 2003

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

Oct 20 2003 5:00PM NASD

10/21/03 P. 5

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Arbitration No. 02-07037  
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Neal J. Blaher, Esq.  
Counsel for Claimants

\_\_\_\_\_  
October 13, 2003  
Signature Date

\_\_\_\_\_/s/  
Frederick W. Keuthen, Esq.  
Counsel for Respondent Signator

\_\_\_\_\_  
October 14, 2003  
Signature Date

\_\_\_\_\_/s/  
Lloyd R. Schwed, Esq.  
Counsel for Respondent Nowak

\_\_\_\_\_  
October 20, 2003  
Signature Date

ARBITRATION PANEL

Floyd A. Hillstrom, Esq.

Sole Public Arbitrator

Sole Public Arbitrator

  
Floyd A. Hillstrom, Esq.  
Sole Public Arbitrator

\_\_\_\_\_  
10/21/03  
Signature Date

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

FROM : HILLSTROM HQ

FAX NO. : 9414123083

Oct. 21 2003 09:37AM P6

1044-001-0000-000000 FINANCIAL NORRIS ENTERPRISE 772 231 0207

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FROM : Law Office of NEAL J. BLAHER

PHONE NO. : 407 898 6620

Oct. 15 2003 03:48PM P8  
NO 2003

Oct-10-2003 10:14AM NASD

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Parties' Signatures

  
Neal J. Blaher, Esq.  
Counsel for Claimants

13 October 2003  
Signature Date

  
Frederick W. Kauten, Esq.  
Counsel for Respondent Signator

Signature Date

  
Lloyd E. Schved, Esq.  
Counsel for Respondent Nowak

Signature Date

**ARBITRATION PANEL**

Floyd A. Hillstrom, Esq.

Sole Public Arbitrator

Sole Public Arbitrator

  
Floyd A. Hillstrom, Esq.  
Sole Public Arbitrator

Signature Date

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