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

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In the Matter of the Arbitration Between:

Names of the Claimants

Tommie J. and Mary E. Leslie JTWROS  
Tommie J. Leslie

Case Number: 02-07219

Names of the Respondents

Michael Sidney Wooton  
American Fronteer Financial Corporation  
Auerbach, Pollak & Richardson, Inc.

Hearing Site: New Orleans, LA

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

**REPRESENTATION OF PARTIES**

For Tommie J. and Mary E. Leslie JTWROS and Tommie J. Leslie, hereinafter collectively referred to as "Claimants": D. Bruce Cameron, Esq., Cameron Law Firm, L.L.C., Slidell, LA.

For Respondent Michael Sidney Wooton ("Wooton"), hereinafter referred to as "Respondent": George D. Fagan, Esq., Leake & Andersson, L.L.P., New Orleans, LA.

Respondents American Fronteer Financial Corporation ("AFFC") and Auerbach, Pollak & Richardson, Inc. ("APR") did not appear in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: November 27, 2002.

Response to Counterclaim filed by Claimants on or about: February 28, 2003.

Claimants signed the Uniform Submission Agreement: November 20, 2002.

Statement of Answer and Counterclaim filed by Respondent on or about: February 7, 2003.

Respondent signed the Uniform Submission Agreement: February 5, 2003.

Motion for Default filed by Claimants against AFFC and APR on or about: November 6, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: negligence; failure to supervise; failure to execute; breach of fiduciary duty; churning; misrepresentations; failure to disclose; unauthorized trading; omission of facts; and, suitability. The causes of action relate to the purchase and sale of numerous securities products including: New Era Networks; Nuveen Nasdaq 100; Nuveen Networking & Storage Five Year Sector Portfolio; Nuveen Bandwidth; Seligman High Yield Bond Fund; Fidelity Advisor High Yield Bond Fund; John Hancock High Yield Bond Fund; Oppenheimer Champion Income Fund; and, Nuveen Dow Jones Sector Port TCH.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In his Counterclaim, Respondent asserted the cause of action of vexatious arbitration. The cause of action relates to Claimants allegedly filing their Statement of Claim in bad faith.

Unless specifically admitted in their Answer, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$100,000.00, punitive damages of \$54,000.00, attorneys' fees of \$10,000.00, forum fees of \$5,000.00, witness and production fees of \$2,000.00, costs of \$1,000.00, that Respondent Wooton provide a written explanation of his February 2001 sale of Nasdaq fund shares and cash dispersal in Mary Leslie's account, and dismissal of the Counterclaim.

Respondent requested compensatory damages of approximately \$40,000.00, costs, attorneys' fees, and dismissal of the Statement of Claim.

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

On or about December 17, 2003, the undersigned arbitrators (the "Panel") issued an order which granted Claimants' Motion for Default and severed Claimants' claims against AFFC and APR from this matter. The disposition of Claimants' claims against AFFC and APR is contained in the award entered in NASD Dispute Resolution Arbitration Number 04-01582.

During the evidentiary hearing, Respondent moved for dismissal of the Statement of Claim. The Panel denied Respondent's motion.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimants compensatory damages in the sum of \$10,164.00, pre-judgment interest specifically excluded.

Respondent's Counterclaim is dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 300.00
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Counterclaim filing fee

= \$ 175.00

**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. Respondents AFFC and APR are no longer member firms of the NASD. Accordingly, no member fees were assessed in this matter.

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

April 13-15, 2004, adjournment by Respondent Wooton. The Panel waived the adjournment fee.

**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.

No injunctive relief fees were assessed during these proceedings.

**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 the Panel @ \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: September 8, 2003	1 session
October 20, 2003	1 session
Four (4) Hearing sessions @ \$1,125.00	= \$ 4,500.00
Hearing Dates: July 20, 2004	2 sessions
July 21, 2004	2 sessions
<hr/> Total Forum Fees	<hr/> = \$ 6,750.00

The Panel has assessed \$3,375.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$3,375.00 of the forum fees to Respondent.

**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.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 3,675.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 175.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 3,550.00
<u>Less payments</u>	<u>= \$ 625.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,925.00

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

**ARBITRATION PANEL**

Bruce V. Schewe	-	Public Arbitrator, Presiding Chairperson
C. Lawrence Orlansky, Esq.	-	Public Arbitrator
Roger Michael Garner	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Bruce V. Schewe  
Public Arbitrator, Presiding Chairperson

August 6, 2004  
Signature Date

/s/  
C. Lawrence Orlansky, Esq.  
Public Arbitrator

August 6, 2004  
Signature Date

/s/  
Roger Michael Garner  
Non-Public Arbitrator

August 8, 2004  
Signature Date

August 10, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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Bruce V. Schewe  
Bruce V. Schewe  
Public Arbitrator, Presiding Chairperson

6 August 2004  
Signature Date

C. Lawrence Orlansky, Esq.  
C. Lawrence Orlansky, Esq.  
Public Arbitrator

Signature Date

Roger Michael Garner  
Roger Michael Garner  
Non-Public Arbitrator

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Bruce V. Schewe  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
C. Lawrence Orlansky, Esq.  
Public Arbitrator

8/6/04  
Signature Date

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Roger Michael Garner  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

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Signature Date

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C. Lawrence Orlansky, Esq.  
Public Arbitrator

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Signature Date

  
Roger Michael Garner  
Non-Public Arbitrator

8/8/04  
Signature Date

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