

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

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In the Matter of the Arbitration Between:  
Martha Tarcici, Claimant v. Wayne Lourenco, Respondent

Case Number: 03-02013

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer vs. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Martha Tarcici  
West Palm Beach, Florida

For Respondent:

Mark S. Flynn, Esq.  
Severson & Werson  
Irvine, California

**CASE INFORMATION**

Statement of Claim filed: March 20, 2003

Supplement to Statement of Claim filed: May 21, 2003

Claimant's Uniform Submission Agreement signed: March 12, 2003

Statement of Answer filed by Respondent Wayne Lourenco: May 14, 2003

Respondent's Uniform Submission Agreement signed: June 18, 2003

**CASE SUMMARY**

Claimant alleged unsuitability with respect to her investment in Nuveen California Dividend Advantage Municipal Fund 3.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

**RELIEF REQUESTED**

Claimant requested damages in the amount of \$10,034.43, plus costs.

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

On April 25, 2003, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators. Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

### **AWARD**

After considering the pleadings, testimony, evidence presented at the hearing and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims by Claimant are denied.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$125.00
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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, Wells Fargo Securities, LLC employed Respondent Lourenco at the time of the events that gave rise to the dispute in this matter and the following fees are assessed:

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

#### **Adjournment Fees**

The following adjournment fees are assessed:

On or about October 29, 2003, the Panel granted Claimant's request to adjourn the hearing date of October 31, 2003, and waived the \$450.00 adjournment fee.

## **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 Chair/Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session = \$900.00

Pre-hearing conferences:	July 15, 2003	1 session
	October 31, 2003	1 session

(1) Hearing session @ \$450.00/session = \$450.00

Hearing: April 16, 2004 1 session

**Total Forum Fees = \$1,350.00**

**The Panel assessed \$675.00 of the forum fees to Respondent Lourenco.**

**The Panel waived the balance of forum fees in the amount of \$675.00.**

### **Fee Summary**

- 1. Claimant is charged with the following fees and costs:**

**Initial Filing Fee** = \$ 125.00

**Less Payments** **= \$ (675.00)**

**Refund Due Claimant = \$ (550.00)**

2. Respondent Lourenco is charged with the following fees and costs:

Forum Fees	= \$ 675.00
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**Less Payments** **= \$ ( 0.00)**

<b>Balance Due NASD-DR</b>	<b>= \$ 675.00</b>
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- 3. Wells Fargo Securities, LLC is charged with the following fees and costs:**

**Member Fees** = \$ 425.00

**Less Payments** **= \$ (425.00)**

Balance Due NASD-DR	= \$	0.00
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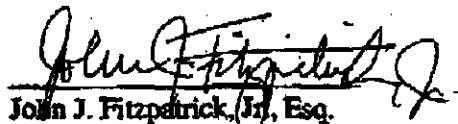
All balances are payable to NASD Dispute Resolution and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

John J. Fitzpatrick, Jr., Esq.

Public Arbitrator, Presiding Chair

**Presiding Arbitrator's Signature**

  
John J. Fitzpatrick, Jr., Esq.  
Chair, Public Arbitrator

5/10/04  
Signature Date

May 11, 2004  
Date of Service