

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

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In the Matter of the Arbitration Between:

Elizabeth Campbell (Claimant) v. Edwin Lair and Butler Wick & Company (Respondents) v.  
Linda Black (Third-Party Respondent)

Case Number: 03-02645

Hearing Site: Cleveland, Ohio

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

**REPRESENTATION OF PARTIES**

Claimant Elizabeth Campbell, hereinafter referred to as "Claimant": Tracey A. Laslo, Esq.,  
Alliance, OH.

Respondents Butler Wick & Company ("Butler") and Edwin Lair ("Lair"), hereinafter  
collectively referred to as "Respondents": Stephen T. Bolton, Esq., Manchester, Bennett, Powers  
& Ullman, Youngstown, OH.

Third-Party Respondent Linda Black, hereinafter referred to as "Third-Party Respondent" did  
not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: June 16, 2003.

Claimant signed the Uniform Submission Agreement: June 13, 2003.

Respondents' Answer and Third Party Complaint filed on or about: August 5, 2003.

Respondent Butler signed the Uniform Submission Agreement: August 4, 2003.

Respondent Lair signed the Uniform Submission Agreement: August 4, 2003.

Third-Party Respondent did not submit a Statement of Answer and did not sign the Uniform  
Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: breach of fiduciary duty; failure to supervise;  
theft and forgery. The cause of action relates to the alleged unauthorized withdrawal of funds  
from Claimant's account; it did not relate to securities within the account.

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

### **RELIEF REQUESTED**

Claimant requested special damages in the amount of \$47,000.00; compensatory damages in the amount of \$25,000.00; punitive damages in the amount of \$250,000.00; attorneys' fees and costs.

Respondents requested that the Statement of Claim be dismissed against them and that costs be assessed against Claimant or, in the alternative, that they be granted judgment on their Third-Party Complaint for any amounts for which they are held liable to the Claimant.

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

Third-Party Respondent Linda Black is not an NASD member and is not required to arbitrate in this forum, and, declined to submit to NASD Dispute Resolution's jurisdiction and accordingly was not a party to this matter.

At the hearing in this matter, Respondents objected to Claimant calling Corporate Representative, Franklin Bennett as a witness. The objection was overruled by the Panel.

The parties have 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant compensatory damages in the sum of \$26,109.33, plus interest at the rate of 5% per annum from the date of service of the Award until the date of payment.
2. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$300.00 to reimburse Claimant for the non-refundable filing fee previously paid to NASD Dispute Resolution.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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	= \$ 300.00
Third Party Claim filing fee	= \$ 1,000.00

**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, Butler Wick & Company is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: November 18, 2004 1 session	
Two (2) Hearing sessions @ \$1,125.00 per session	= \$ 2,250.00
Hearing Date: September 14, 2005 2 sessions	
Total Forum Fees	= \$ 3,375.00

1. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund Due Claimant	= \$ 1,125.00

2. Respondent Butler is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents Butler and Lair are jointly and severally liable for:

Third-Party Claim Filing Fee	= \$ 1,000.00
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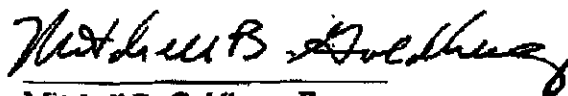
<u>Forum Fees</u>	= \$ 3,375.00
<u>Total Fees</u>	= \$ 4,375.00
<u>Less payments</u>	= \$ 1,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,375.00

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

ARBITRATION PANEL

Mitchell B. Goldberg, Esq.	-	Public Arbitrator, Presiding Chairperson
Frank C. Fogl, Jr., Esq.	-	Public Arbitrator
James E. Zimmerman, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mitchell B. Goldberg, Esq.  
Public Arbitrator, Presiding Chairperson

September 22, 2005

Signature Date

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Frank C. Fogl, Jr., Esq.  
Public Arbitrator

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Signature Date

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James E. Zimmerman, J.D.  
Non-Public Arbitrator

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Signature Date

SEPTEMBER 28, 2005

Date of Service (For NASD Dispute Resolution use only)

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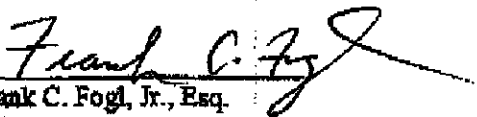
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