

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

Jerry and Janice Marchbanks

and

Case Number: 03-04554
Hearing Site: Houston, Texas

Names of Respondents

Legg Mason Wood Walker, Inc.
and Donald C. Celestin

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Jerry and Janice Marchbanks ("**Claimants**") were represented by Steven Marchbanks, Esq., San Diego, California.

Legg Mason Wood Walker, Inc. ("**Legg Mason**") and Donald C. Celestin ("**Celestin**"), hereinafter collectively referred to as "**Respondents**," were represented by Sheila M. Vidmar, Esq., Legg Mason, Baltimore, Maryland.

CASE INFORMATION

The Statement of Claim was filed on or about June 23, 2003. The Uniform Submission Agreement of Claimants, Jerry and Janice Marchbanks, was signed on or about June 13, 2003.

The Statement of Answer was filed jointly by Respondents, Legg Mason Wood Walker, Inc. and Donald Celestin, on or about August 20, 2003. The Uniform Submission Agreement of Respondent, Legg Mason Wood Walker, Inc., was signed on or about August 19, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty, misrepresentations, unauthorized trading and churning. The causes of action related to unsuitable recommendations for investments in

Claimants' accounts.

Respondents, Legg Mason Wood Walker, Inc. and Donald Celestin, denied the allegations made in the Statement of Claim and asserted defenses including the following: The Statement of Claim failed to state a claim upon which relief can be granted; failure to mitigate and assumption of risk by Claimants.

RELIEF REQUESTED

Claimants requested an award in the amount of:

| | |
|-----------------------------|--------------|
| Actual/Compensatory Damages | \$438,000.00 |
| Punitive/Exemplary Damages | \$ 50,000.00 |
| Interest | Unspecified |
| Attorneys' Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary Relief | Unspecified |

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Respondent, Donald C. Celestin, requested expungement of all reference to this matter from his CRD record.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Donald C. Celestin, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the prehearing is bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims against Respondents, Legg Mason Wood Walker, Inc. and Donald C. Celestin, are dismissed with prejudice;

- 2.) The panel recommends the expungement, of all references to the above captioned arbitration from Respondent, Donald C. Celestin's, registration record maintained by NASD Central Depository ("CRD"), with the understanding that pursuant to NASD Notice to Member 99-09 and 99-54, Respondent, Donald C. Celestin, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any and all relief not specifically addressed herein, including attorneys' fees and costs is denied and all claims are dismissed with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300.00

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. In this matter, the member firm is Legg Mason Wood Walker, Inc.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$2,750.00 |

Adjournment Fees

Adjournments granted during these proceedings:

| | |
|---|--------------|
| June 16-19, 2004, joint adjournment by parties (waived – parties participated in NASD Mediation) | = \$1,125.00 |
|---|--------------|

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1,125.00 | = \$1,125.00 |
| <u>Pre-hearing conference: December 15, 2003 1 session</u> | |
| <u>Total Forum Fees</u> | <u>= \$1,125.00</u> |

The Arbitration Panel has assessed \$562.50 of the forum fees jointly and severally to Jerry and Janice Marchbanks.

The Arbitration Panel has assessed \$562.50 of the forum fees jointly and severally to Legg Mason Wood Walker, Inc. and Donald E Celestin.

Fee Summary

Claimants, Jerry and Janice Marchbanks, are jointly and severally liable for:

| | |
|--------------------------------------|----------------------|
| Initial Filing Fee | = \$ 300.00 |
| <u>Forum Fees</u> | <u>= \$ 562.50</u> |
| <u>Total Fees</u> | <u>= \$ 862.50</u> |
| <u>Less payments</u> | <u>= \$ 1,425.00</u> |
| <u>Balance Refunded to Claimants</u> | <u>= \$ 562.50</u> |

Respondent, Legg Mason Wood Walker, Inc., is liable for:

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

Respondents, Legg Mason Wood Walker, Inc. and Donald C. Celestin, are jointly and severally liable for:

| | |
|--|----------------------|
| <u>Forum Fees</u> | <u>= \$ 562.50</u> |
| <u>Total Fees</u> | <u>= \$ 562.50</u> |
| <u>Less payments</u> | <u>= \$ 1,125.00</u> |
| <u>Balance Refunded to Respondent Legg Mason</u> | <u>= \$ 562.50</u> |

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

ARBITRATION PANEL

Philip I. McConnell - Public Arbitrator, Presiding Chair
Peter D. Sterling - Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Philip I. McConnell
Philip I. McConnell
Public Arbitrator, Presiding Chair

October 28, 2005
Signature Date

/s/ Peter D. Sterling
Peter D. Sterling
Public Arbitrator

October 28, 2005
Signature Date

/s/ Walter F. Schleyer
Walter F. Schleyer
Non-Public Arbitrator

October 28, 2005
Signature Date

October 31, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Philip I. McConnell - Public Arbitrator, Presiding Chair
Peter D. Sterling - Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

Philip I. McConnell
Philip I. McConnell
Public Arbitrator, Presiding Chair

10-28-05
Signature Date

Peter D. Sterling
Peter D. Sterling
Public Arbitrator

Signature Date

Walter F. Schleyer
Walter F. Schleyer
Non-Public Arbitrator

Signature Date

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Philip I. McConnell - Public Arbitrator, Presiding Chair
Peter D. Sterling - Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

Philip I. McConnell
Public Arbitrator, Presiding Chair

Peter D. Sterling
Public Arbitrator

Walter F. Schleyer
Non-Public Arbitrator

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ARBITRATION PANEL

Philip I. McConnell - Public Arbitrator, Presiding Chair
Peter D. Sterling - Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

Phillip I. McConnell
Public Arbitrator, Presiding Chair

Signature Date

Peter D. Sterling
Public Arbitrator

Signature Date



Walter F. Schleyer
Non-Public Arbitrator



Signature Date

Date of Service (For NASD office use only)