

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

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In the Matter of the Arbitration Between:

Wanda Borden, Claimant v. Wells Fargo Investments, LLC and Carl I. Cottingham, Respondents

Case Number: 03-04733

Hearing Site: Portland, Oregon

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

**REPRESENTATION OF PARTIES**

For Claimant:

Scott A. Shorr, Esq.  
Emily S. Courtnage, Esq.  
Stoll, Stoll, Berne, Lokting & Shlachter, PC  
Portland, Oregon

For Respondents:

Pilar C. French, Esq.  
Lane, Powell, Spears & Lubersky, LLP  
Portland, Oregon

**CASE INFORMATION**

Statement of Claim filed: June 27, 2003

Claimant's Uniform Submission Agreement signed: June 16, 2003

Joint Statement of Answer filed by Respondents Wells Fargo Investments, LLC and Carl I. Cottingham: August 21, 2003

Respondent Wells Fargo Investments, LLC's Uniform Submission Agreement signed:  
August 20, 2003

Respondent Carl I. Cottingham's Uniform Submission Agreement signed: September 10, 2003

### **CASE SUMMARY**

Claimant alleged securities fraud, fraud, negligent misrepresentation, negligence, breach of fiduciary duty, and elder abuse, involving MFS Regatta Choice Variable Annuity.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$63,779.26 in compensatory damages, \$100,000.00 in punitive damages, unspecified interest, attorney's fees, filing fees, witness fees, and costs.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, attorney's fees, costs, and expungement of all reference to the above captioned arbitration from the registration record of Carl I. Cottingham maintained by the NASD Central Registration Depository.

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

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 and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Carl I. Cottingham's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Carl I. Cottingham must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their respective costs and expenses, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	= \$ 300.00
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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, the member firm Wells Fargo Investments, LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference conducted. A pre-hearing conference is any meeting between the parties and the Chair or Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: November 4, 2003 1 session	

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<b>Total Forum Fees</b>	<b>= \$ 1,125.00</b>
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1. The Panel assessed \$ 562.50 of the forum fees to Claimant Wanda Borden.
2. The Panel assessed \$ 562.50 of the forum fees jointly and severally to Respondents Wells Fargo Investments, LLC and Carl I. Cottingham.

**FEE SUMMARY**

1. Claimant Wanda Borden is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$(1,425.00)</u>
<b>Refund Due Claimant Wanda Borden</b>	<b>= \$ (562.50)</b>

2. Respondent Wells Fargo Investments, LLC is charged with the following fees and costs:

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

3. Respondents Wells Fargo Investments, LLC and Carl I. Cottingham are charged jointly and severally with the following fees and costs:

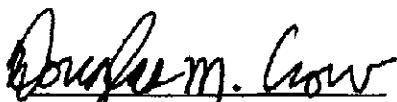
Forum Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 562.50</b>

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

**ARBITRATION PANEL**

<i>Douglas M. Crow</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Peter M. Appleton, Esq.</i>	-	<i>Public Arbitrator</i>
<i>George R. Milne</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Douglas M. Crow  
Chair, Public Arbitrator

September 9, 2004  
Signature Date

\_\_\_\_\_  
Peter M. Appleton, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
George R. Milne  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

9/15/04  
Date of Service

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