

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Hershel D. Harrod, Andrea L. Harrod and Betty A. Weiner, Claimants vs. Wells Fargo Investments, LLC, Wells Fargo Securities Inc., Daniel J. Grover and Julie Belton Fontani, Respondents

Case Number: 03-05237

Hearing Site: San Francisco, California

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Nature of the Dispute: Customers vs. Members and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimants:

James Jay Seltzer  
Law Offices of James Jay Seltzer  
Emeryville, California

For Respondents:

Joseph E. Floren  
Morgan, Lewis & Bockius LLP  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: July 16, 2003

Claimants' Uniform Submission Agreement signed: July 9, 2003

Joint Statement of Answer filed by Respondents Wells Fargo Investments, LLC, Wells Fargo Securities Inc., Daniel J. Grover and Julie Belton Fontani, formerly known as Julie Belton: December 1, 2003

Respondent Wells Fargo Investments, LLC's Uniform Submission Agreement signed: November 26, 2003

Respondent Daniel J. Grover's Uniform Submission Agreement signed: November 24, 2003

Respondent Julie Belton Fontani's Uniform Submission Agreement signed: September 20, 2003

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### **CASE SUMMARY**

Claimants alleged the following claims: 1) Just and Equitable Principles of Trade; 2) Suitability; 3) Omissions and Misrepresentations of Material Fact; 4) Unauthorized Trading; 5) Negligent Supervision and Failure to Supervise; 6) Violation of Corporations Code Sections 25401 and 25504.1; 7) Negligence; 8) Breach of Contract; 9) The Implied Covenant of Good Faith and Fair Dealing; 10) Breach of Fiduciary Duty; 11) Common Law Fraud; and 12) Elder Abuse and Dependent Adult Protection Act. Claimants' dispute involved investments in various AIM funds, Wells Fargo funds and Evergreen Adjustable Fund.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested damages of approximately \$216,000.00, treble damages in the amount of \$432,000.00, punitive damages, costs, attorneys' fees and such further action deemed just and appropriate in this matter.

Respondents requested that Claimants' Statement of Claim be dismissed in its entirety and that Claimants be awarded nothing, costs, that the Panel recommend that a court order that all references to this matter be expunged from Respondents Daniel J. Grover and Julie Belton Fontani's regulatory records, and such other relief as the Panel deems appropriate.

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

On May 26, 2004, Claimants and Claimants' counsel 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 Claimants 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.

Respondent Wells Fargo Securities Inc. did not file with NASD Dispute Resolution an executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure ("Code") and having answered the Claim is bound by the determination of the Arbitration Panel on all issues submitted.

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The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **STIPULATION FOR AWARD OF DISMISSAL AND EXPUNGEMENT**

All parties to this arbitration stipulate and agree as follows:

1. The parties reached and have now concluded a voluntary settlement of this dispute. Respondents Daniel J. Grover and Julie Belton Fontani made no payment of any kind to Claimants and have no obligation under the parties' agreement.
2. Claimants hereby withdraw and request the dismissal of their claims as to Respondents Daniel J. Grover and Julie Belton Fontani with prejudice.
3. As a material term of the parties' settlement, and in order to avoid further proceedings in this matter, Claimants hereby respectfully request that the Panel enter a final Award dismissing all claims against all Respondents and recommending the expungement of this matter from the Central Registration Depository records of Daniel J. Grover and Julie Belton Fontani in the following terms:

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Daniel J. Grover and Julie Belton Fontani's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, this Award must be confirmed in a court of competent jurisdiction before the CRD will execute the expungement directive.

### **AWARD**

After considering the preceding Stipulation of the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel notes the parties' stipulation that all claims asserted by the Claimants against Respondents have been resolved.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Daniel J. Grover and Julie Belton Fontani's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Daniel J. Grover and Julie Belton Fontani must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Each party shall bear its own costs, including attorneys' fees.
4. All other relief 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	= \$ 375.00
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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 Investments, LLC and Wells Fargo Securities Inc. are parties and the following fees are assessed:

<u>Wells Fargo Investments, LLC</u>	
Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00
<b>Total Member Fees</b>	<b>= \$7,000.00</b>

<u>Wells Fargo Securities Inc.</u>	
Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00
<b>Total Member Fees</b>	<b>= \$7,000.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

The arbitration hearing dates scheduled for January 24-27, 2006, were adjourned at the parties' joint request, so that the parties could mediate this matter. Because the parties agreed that NASD Dispute Resolution could administer the mediation, no postponement fee was assessed.

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**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 the Panel @ \$1,200.00/session = \$ 2,400.00  
Pre-hearing conferences: January 19, 2005 1 session  
April 7, 2006 1 session

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**Total Forum Fees = \$ 2,400.00**

1. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Claimants Hershel D. Harrod, Andrea L. Harrod and Betty A. Weiner.
2. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Respondents Wells Fargo Investments, LLC, Wells Fargo Securities Inc., Daniel J. Grover and Julie Belton Fontani.

**Fee Summary**

1. Claimants Hershel D. Harrod, Andrea L. Harrod and Betty A. Weiner are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,575.00
Less Payments	= \$( 1,575.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

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

Member Fees	= \$ 7,000.00
Less Payments	= \$( 7,000.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondent Wells Fargo Securities Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less Payments	= \$( 1,700.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 5,300.00</b>

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- ~~4. Respondents Wells Fargo Investments, LLC, Wells Fargo Securities Inc., Daniel J. Grover and Julie Belton Fontani are charged jointly and severally with the following fees and costs:~~

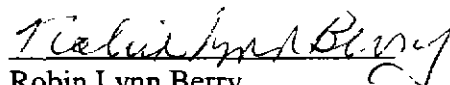
Forum Fees	= \$ 1,200.00
Less Payments	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,200.00</b>

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**

Robin Lynn Berry	-	Public Arbitrator, Presiding Chair
Paul F. Faberman	-	Public Arbitrator
Mark R. Palmer	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Robin Lynn Berry  
Chair, Public Arbitrator

4-21-06  
Signature Date

\_\_\_\_\_  
Paul F. Faberman  
Public Arbitrator

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

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Mark R. Palmer  
Non-Public Arbitrator

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

4/28/06  
Date of Service

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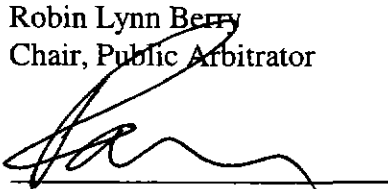
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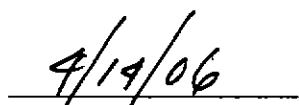
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Chair, Public Arbitrator

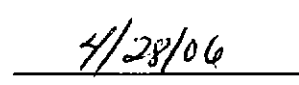
  
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Signature Date

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Paul F. Faberman  
Public Arbitrator

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

Mark Palmer  
Mark R. Palmer  
Non-Public Arbitrator

4-17-06  
Signature Date

4/28/06  
Date of Service



IN ARBITRATION BEFORE  
THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

HERSHEL D. HARROD, ANDREA L.  
HARROD and BETTY A. WEINER,

Claimants,

v.

WELLS FARGO INVESTMENTS, LLC,  
WELLS FARGO SECURITIES, INC.,  
DANIEL GROVER and JULIE BELTON,

Respondents.

CASE NO. 03-05237

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DISMISSAL AND EXPUNGEMENT**

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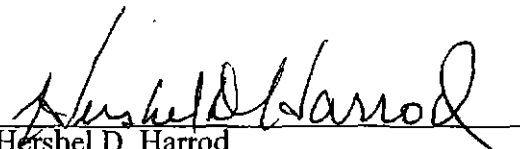
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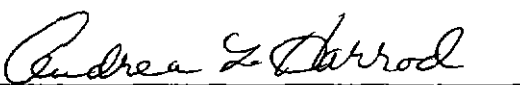
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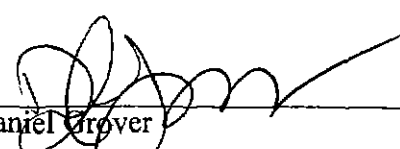
**IT IS SO STIPULATED**

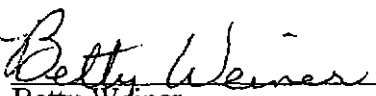
**Wells Fargo Investments, LLC**

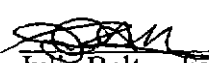
  
Hershel D. Harrod

By:   
An Officer or Authorized Representative

  
Andrea L Harrod

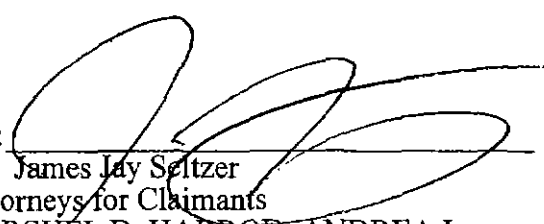
  
Daniel Grover

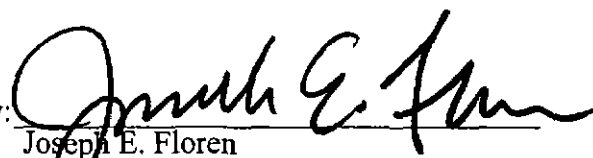
  
Betty Weiner

  
Julie Belton Fontani

APPROVED AS TO FORM:  
Law Firm of JAMES JAY SELTZER

APPROVED AS TO FORM:  
MORGAN, LEWIS & BOCKIUS LLP

By:   
James Jay Seltzer  
Attorneys for Claimants  
HERSHEL D. HARROD, ANDREA L.  
HARROD AND BETTY WEINER

By:   
Joseph E. Floren  
Attorneys for Respondents  
WELLS FARGO INVESTMENTS, LLC,  
WELLS FARGO SECURITIES, INC., DANIEL  
GROVER AND JULIE BELTON FONTANI