

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

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In the Matter of the Arbitration Between:

Hans G. Franke, Claimant v. Wells Fargo Bank, N.A., Douglas Evans, and Amanda Weitman,  
Respondents

Case Number: 03-06253

Hearing Site: Reno, Nevada

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Nature of the Dispute: Customer v. Non-Member and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimant:

Jeff Dennis Ferentz, Esq.  
Ronald E. Miller, Esq.  
Jeff Dennis Ferentz, Inc.  
Newport Beach, California

Ronald E. Miller  
Nationwide Securities  
Arbitration Services, Inc.  
Incline Village, Nevada

For Respondents Wells Fargo Bank, N.A., Douglas Evans,  
and Amanda Weitman:

Michael J. Lawson, Esq.  
Clyde J. Wadsworth, Esq.  
Steefel, Levitt & Weiss  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: August 28, 2003

Claimant's Uniform Submission Agreement signed: August 22, 2003

Joint Statement of Answer filed by Respondents Wells Fargo Bank, N.A., Douglas Evans and  
Amanda Weitman: November 7, 2003

**CASE SUMMARY**

Claimant alleged unsuitability, fraud, deceit, omission of material facts, misrepresentations, unauthorized trading, violation of section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder, breach of fiduciary duty, and failure to supervise. Claimant's allegations involved the purchase of technology stocks in his account.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested \$550,000.00 in compensatory damages, disgorgement of commissions, margin interest, and other compensation, unspecified punitive damages, pre- and post-judgment interest and costs, including attorney's fees and consulting fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, costs, and a recommendation by the Panel that this matter be expunged from the individual Respondents' CRD records.

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

Respondent Douglas Evans did not file with NASD Dispute Resolution a properly executed submission agreement. However, said Respondent is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and, having answered the claim and having appeared and testified at the hearing, said Respondent is bound by the determination of the Panel on all issues submitted.

Respondent Amanda Weitman did not file with NASD Dispute Resolution a properly executed submission agreement. However, said Respondent is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and, having answered the claim, said Respondent is bound by the determination of the Panel on all issues submitted.

Respondent Wells Fargo Bank, N.A. did not file with NASD Dispute Resolution a properly executed submission agreement, but having answered the claim and having appeared at, and participated in, the hearing, said Respondent has consented to the Panel's jurisdiction over it with respect to this matter and is thus bound by the determination of the Panel on all issues submitted.

On January 11, 2005, Claimant filed a Request for Dismissal with Prejudice of all claims against Amanda Weitman. On January 19, 2005, the Chair signed an Order dismissing all claims against Amanda Weitman with prejudice.

On January 24, 2005, the parties to this proceeding stipulated to the fact that Respondent Wells Fargo Securities, LLC had been named in error as a Respondent and that the proper Respondent in this proceeding is Wells Fargo Bank, N.A.

On January 25, 2005, Claimant requested that his tax returns be excluded from the exhibits being sent to NASD Dispute Resolution for filing, which request was granted by the Panel. Claimant and Respondents entered into a confidentiality agreement not to disclose Claimant's tax returns to third parties; the tax returns will be held by Claimant's counsel, Jeff Dennis Ferentz, and will

be made available to Respondents, if necessary.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Douglas Evans and Amanda Weitman's registration records maintained by NASD's Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Douglas Evans and Amanda Weitman must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
- 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	= \$ 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, the member firm Wells Fargo Investments, LLC employed Respondents Douglas Evans and Amanda Weitman at the time of the events giving rise to this dispute, and the following fees are assessed:

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

**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 or the parties and the Panel. The following fees are assessed:

One (1) pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: February 2, 2004 1 session	
Six (6) hearing sessions @ \$1,200.00/session	= \$ 7,200.00
Hearings: January 24, 2005 2 sessions	
January 25, 2005 2 sessions	
January 26, 2005 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 8,400.00</b>

The Panel assessed \$8,400.00 of the forum fees to Claimant.

**Fee Summary**

1. Claimant Hans G. Franke is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 8,400.00
Total Fees	= \$ 8,775.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 7,200.00</b>

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

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

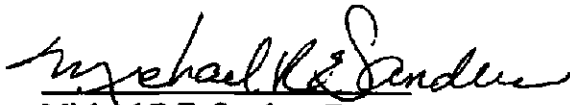
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

*Michael R.E. Sanders, Esq.*  
*Gloria J. Moore, Esq.*  
*Richard C. Ramos*

*Public Arbitrator, Presiding Chair*  
*Public Arbitrator*  
*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Michael R.E. Sanders, Esq.  
Chair, Public Arbitrator

4/28/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Gloria J. Moore, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Richard C. Ramos  
Non-Public Arbitrator

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

4/31/05  
\_\_\_\_\_  
Date of Service

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Arbitration No. 03-06253  
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**ARBITRATION PANEL**

*Michael R.E. Sanders, Esq.*

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*Public Arbitrator, Presiding Chair*

*Gloria J. Moore, Esq.*

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*Public Arbitrator*

*Richard C. Ramos*

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*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

Michael R.E. Sanders, Esq.  
Chair, Public Arbitrator

Signature Date



Gloria J. Moore, Esq.  
Public Arbitrator

1/31/2005  
Signature Date

Richard C. Ramos  
Non-Public Arbitrator

Signature Date

1/31/05  
Date of Service

**ARBITRATION PANEL**

<i>Michael R.E. Sanders, Esq.</i>	-	<i>Public Arbitrator, Presiding</i>
<i>Chair Gloria J. Moore, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Richard C. Ramos</i>	-	<i>Non-Public Arbitrator</i>

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Michael R.E. Sanders, Esq.  
Chair, Public Arbitrator

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Signature Date

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Gloria J. Moore, Esq.  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Richard C. Ramos  
Non-Public Arbitrator

1-31-05  
Signature Date