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

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In the Matter of the Arbitration Between:

Names of the Claimants

Steven E. Fairchild, as Executor  
Under the Will of Mary F. Wilder, Deceased, and  
Wilder Lands, Inc., a Georgia Family Corporation

Case Number: 04-07920

Names of the Respondents

J.J.B. Hilliard, W.L. Lyons, Inc., and  
Dewitt T. Coppedge, individually

Hearing Site: Atlanta, Georgia

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

**REPRESENTATION OF PARTIES**

For Steven E. Fairchild, as Executor Under the Will of Mary F. Wilder, Deceased ("EMFW"), and Wilder Lands, Inc., a Georgia Family Corporation ("WLI"), hereinafter collectively referred to as "Claimants": Hubert C. Lovein, Jr., Esq., Jones Cork and Miller, LLP, Macon, Georgia.

For J.J.B. Hilliard, W.L. Lyons, Inc. ("JJB") and Dewitt T. Coppedge, individually ("Coppedge"), hereinafter collectively referred to as "Respondents": Charles W. Hill, Esq., Glankler Brown, PLLC, Memphis, Tennessee.

**CASE INFORMATION**

Statement of Claim filed on or about: November 15, 2004.

Claimants signed the Uniform Submission Agreement: November 7, 2004.

Statement of Answer filed by Respondents on or about: March 1, 2005.

Respondent JJB signed the Uniform Submission Agreement: March 1, 2005.

Respondent Coppedge signed but did not date the Uniform Submission Agreement.

Claimants' Post-Hearing Submission filed on or about: March 30, 2006.

Respondents' Response to Claimants' Post-Hearing Submission filed on or about: April 6, 2006.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; negligence; failure to supervise; misrepresentation; breach of fiduciary duty; and, churning. The causes of action relate to the investment in Claimants' account of various unspecified corporate and municipal bonds, growth stock mutual funds, bond funds and technology stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondents asserted that, applying Georgia law, the claims set forth in the Statement of Claim are barred due to the

expiration of the two-year statute of limitations found at G.C.A. Section 10-5-14, the four-year statutes of limitations found at G.C.A. Sections 9-3-26 and 9-3-31 or the six-year statute of limitations found at G.C.A. Section 9-3-24.

Assuming Tennessee law applies, Respondents asserted that the claims set forth in the Statement of Claim are barred due to the expiration of the three-year statute of limitations found at T.C.A. Section 28-3-105 or the six-year statute of limitations found at T.C.A. Section 28-3-109. Respondents also asserted that Rule 10304 of the NASD Code of Arbitration Procedure (the "Code") bars any claims which arose from transactions occurring six years prior to the filing of the Statement of Claim.

In response, Claimants asserted that the statutes of limitations did not bar the claims.

#### **RELIEF REQUESTED**

In the Statement of Claim, Claimant EMFW requested: (1) compensatory damages in the amount of \$319,595.16; and (2) punitive damages in the amount of \$639,190.32.

In the Statement of Claim, Claimant WLI requested: (1) compensatory damages in the amount of \$326,093.51; and (2) punitive damages in the amount of \$652,187.02.

Respondents requested: (1) that the Panel dismiss Claimants' claims in their entirety and rule that Claimants are not entitled to be awarded any compensatory damages, punitive or other monetary damages; (2) an award of Respondents' costs, including reasonable attorneys' fees, incurred in the defense of the Statement of Claim; (3) an award of Respondents' forum fees, assessments, and charges imposed in connection with these proceedings, and (4) such other and further relief to which Respondents show themselves entitled.

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

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

#### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants shall take nothing. The Panel finds that the claims of Claimants relating to the transactions at issue in Claimants' accounts are barred by the applicable statutes of limitations.

Each party shall bear their respective costs and attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages, are 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	= \$ 500.00
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#### **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, J.J.B. Hilliard, W.L. Lyons, Inc., is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments granted for which fees were assessed in this matter.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00  
Pre-hearing conference: October 26, 2005 1 session

One (1) Pre-hearing session with the Panel @ \$1,200.00/session = \$ 1,200.00  
Pre-hearing conference: June 23, 2005 1 session

Four (4) Hearing sessions @ \$1,200.00/session = \$4,800.00  
Hearing Dates: March 28, 2006 2 sessions  
March 29, 2006 2 sessions

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Total Forum Fees = \$6,450.00

The Panel has assessed the total forum fees of \$6,450.00 to Respondent JJB.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

### **Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ .00

Respondent JJB is solely liable for:

Forum Fees	= \$ 6,450.00
<u>Member Fees</u>	= \$ 8,550.00
Total Fees	= \$15,000.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 6,450.00

## ARBITRATION PANEL

### Concurring Arbitrators' Signatures

April 17, 2006  
Signature Date

April 17, 2006  
Signature Date


April 17, 2006  
Signature Date

April 19, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Bernard Leroy Lynch

Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
James R. McGuone, Esq.  
Public Arbitrator, Presiding Chairperson

April 17, 2006  
Signature Date

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Victor L. Hayslip, J.D.  
Public Arbitrator

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Signature Date

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Bernard Leroy Lynch  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

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Public Arbitrator

4/17/06  
Signature Date

Bernard Leroy Lynch  
Non-Public Arbitrator

Signature Date

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Bernard Leroy Lynch

Non-Public Arbitrator

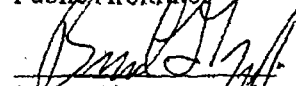
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Signature Date

  
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Non-Public Arbitrator

4/17/06  
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