

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

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 05-03399

Ronald H. and Barbara L. Colvin, and  
Ronald H. Colvin as Custodian for Miller Z. Colvin,  
Andrew Bolling Colvin, Emily Grayson Bolling,  
Allan Bolling, and Evan James Bolling

Name of the Respondent

Hearing Site: Columbia, South Carolina

Legg Mason Wood Walker, Inc.

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Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants, Ronald H. and Barbara L. Colvin, and Ronald H. Colvin as Custodian for Miller Z. Colvin, Andrew Bolling Colvin, Emily Grayson Bolling, Allan Bolling, and Evan James Bolling, hereinafter collectively referred to as "Claimants", were represented by Ben C. Harrison, Esq., Harrison, White, Smith & Coggins, P.C., Spartanburg, South Carolina.

Respondent, Legg Mason Wood Walker, Inc., hereinafter referred to as "Respondent", was represented by D. Larry Kristinik, Esq., Nelson Mullins Riley & Scarborough, L.L.P., Columbia, South Carolina.

CASE INFORMATION

Statement of Claim filed on June 11, 2005.

Claimants signed the Uniform Submission Agreements on June 11, 2005.

Statement of Answer filed by Respondent on August 19, 2005.

A representative of Respondent executed the Uniform Submission Agreement on November 4, 2005.

Respondent's Motion to Dismiss Based on Statute of Limitations was filed on November 22, 2005.

Claimants' Memorandum in Opposition to Respondent's Motion to Dismiss Based on Statute of Limitations was filed on December 30, 2005.

Respondent's Reply in Support of Motion to Dismiss Based on Statute of Limitations was filed on January 31, 2006.

Claimants' Second Memorandum in Opposition to Respondent's Motion to Dismiss Based on Statute of Limitations was filed on July 5, 2006.

Respondent's Supplemental Memorandum Regarding Statute of Limitations was filed on July 7, 2006.

Claimants' Memorandum in Response to Respondent's Supplemental Memorandum Regarding Statute of Limitations was filed or about July 17, 2005.  
Respondent's Reply Brief to Claimants' Second Memorandum in Opposition to Motion to Dismiss Based on Statute of Limitations was filed on July 18, 2005.

### CASE SUMMARY

Claimants asserted the following causes of action, among others: negligent failure to supervise, suitability, negligence, breach of contract, breach of fiduciary duty, control person liability, constructive fraud, and liability as a master and/or principal or *respondeat superior*. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a cause of action upon which relief may be granted, Respondent acted in good faith at all times, ratification, assumption of risk, contributory/comparative negligence, waiver, estoppel, ratification, statute of limitations, and failure to mitigate.

### RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$210,000.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested dismissal of the Statement of Claim, an award of costs and expenses, and any other relief as is just and proper.

### AWARD

After considering the pleadings and argument of counsel, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent are dismissed with prejudice on statute of limitations grounds;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### 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	= \$ 300.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
<u>Total Member Fees</u>	<u>= \$5,200.00</u>

#### 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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: November 30, 2005	1 session
February 28, 2006	1 session
<u>Total Forum Fees</u>	<u>= \$2,250.00</u>

1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$1,125.00 of the forum fees to Respondent.

### FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
<u>Total Fees</u>	<u>= \$1,425.00</u>
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent is assessed and shall pay the following fees:

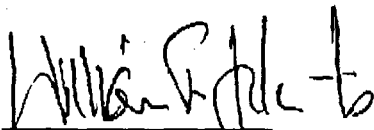
Member Fees	= \$5,200.00
Forum Fees	= \$1,125.00
Total Fees	= \$6,325.00
Less payments	= \$2,450.00
Balance Due NASD Dispute Resolution	= \$3,875.00

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

ARBITRATION PANEL

William F. Julavits, Esq.	-	Public Arbitrator, Presiding Chairperson
Joan Connolly Grafstein, Esq.	-	Public Arbitrator, Panelist
Tom G. Gambill, PhD	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



William F. Julavits, Esq.  
Public Arbitrator, Presiding Chairperson

05.22.06

Signature Date

Joan Connolly Grafstein, Esq.  
Public Arbitrator, Panelist

Signature Date

Tom G. Gambill, PhD  
Non-Public Arbitrator, Panelist

Signature Date

August 23 2006  
Date of Service (For NASD Dispute Resolution office use only)

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William F. Julavits, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Joan Connolly Grafstein  
Joan Connolly Grafstein, Esq.  
Public Arbitrator, Panelist

8/22/06  
Signature Date

Tom G. Gambill, PhD  
Non-Public Arbitrator, Panelist

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Signature Date

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