

**NASD DISPUTE RESOLUTION STIPULATED AWARD**  
**NASD DISPUTE RESOLUTION**

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CASE: 05-04782

Michael E. Swan, (Claimant) vs. The Cassidy Family Trust DTD 10/07/92, Emmett Cassidy and Mary H. Cassidy, (Respondents)

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**ATTORNEYS:**

For Claimant appeared Jill M. Buresh, Esq., of the firm Jones, Bell, Abbott, Fleming & Fitzgerald, L.L.P., Los Angeles, CA.

For Respondents appeared Ian M. Guthrie, Esq., of the firm Schley, Look & Guthrie, L.L.P., Santa Barbara, CA.

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**NATURE OF DISPUTE:** Associated Person vs. Customers

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**DATE FILED:** September 12, 2005

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**CASE SUMMARY:** Claimant requested expungement of all reference of NASD Arbitration Case Number 02-02743 from his Central Registration Depository ("CRD") records. Respondents had no objection and all parties signed a Stipulated Award for the Arbitrator's review.

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**ARBITRATOR'S REPORT:** See attached Exhibit A.

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**Claim Data**

Claim: Expungement  
Filing Fees: Unspecified

**Award Data**

Award: Granted  
Filing Fees: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The Panel recommends the expungement of all reference to NASD Arbitration Case Number 02-02743 from Claimant Michael E. Swan's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Claimant Michael E. Swan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents. Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact: The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds. 2) All other relief requests are denied. 3) NASD Dispute Resolution shall retain the \$1,250.00 filing fee that the Claimant deposited previously.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, Wachovia Securities Financial Network has paid to NASD Dispute Resolution the \$1,500.00 Member Surcharge previously invoiced.

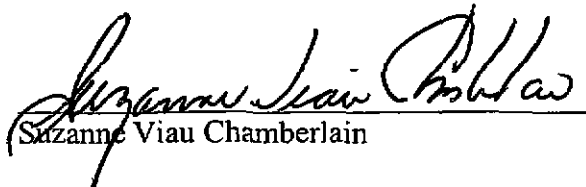
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Award 05-04782

Suzanne Viau Chamberlain

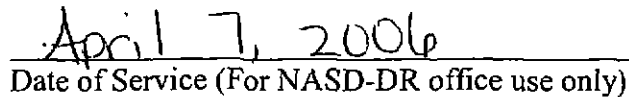
Sole Public Arbitrator

AFFIRMATION

I, Suzanne Viau Chamberlain, do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

  
Suzanne Viau Chamberlain

  
(Signature Date)

  
Date of Service (For NASD-DR office use only)

# Exhibit A

**BEFORE THE ARBITRATION BOARD OF THE  
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

MICHAEL E. SWAN,

Claimant,

vs.

THE CASSIDY FAMILY TRUST, DTD 10/07/92,  
EMMETT CASSIDY, and MARY H. CASSIDY,

Respondents.

CASE NO. 05-04782

**STIPULATED AWARD**

**COUNSEL:**

For Claimant:

Jones, Bell, Abbott, Fleming & Fitzgerald L.L.P.  
Michael J. Abbott  
Jill M. Buresh  
601 S. Figueroa Street, 27<sup>th</sup> Floor  
Los Angeles, CA 90017-5759

For Respondents:

Ian M. Guthrie  
Schley Look & Guthrie L.L.P.  
311 E. Carrillo Street, Suite D  
Santa Barbara, CA 93101-1400

**CASE INFORMATION**

Statement of Claim Filed: September 12, 2005

Claimant's Uniform Submission Agreement Signed: August 29, 2005

**CASE SUMMARY**

Claimant is a registered representative of Wachovia Securities Financial Network, LLC. He was named as a respondent in the action entitled, *The Cassidy Family Trust, dtd 10/07/92 v. First Union Securities Financial Network aka JW Genesis Financial, Prudential Securities, Inc., Michael B. Ralby, Daren L. Skor, and Michael E. Swan*, NASD case number 02-02743. He was voluntarily dismissed from the action in December 2003. Claimant seeks expungement of NASD case number 02-02743 from his record maintained by the Central Registration Depository

(CRD). Respondents do not object to Claimant's request for expungement. Respondents agree that he was not involved in the transactions at issue in case number 02-02743.

### **RELIEF REQUESTED**

Claimant seeks expungement of the action entitled, *The Cassidy Family Trust, dtd 10/07/92 v. First Union Securities Financial Network aka JW Genesis Financial, Prudential Securities, Inc., Michael B. Ralby, Daren L. Skor, and Michael E. Swan*, NASD case number 02-02743, from his CRD record. Claimant agrees to incur all costs associated with this action and asks that no costs will be assessed to Respondents.

### **AWARD**

On the request of Claimant and Respondents for this stipulated Award, the arbitrator has decided, in full and final resolution of the issues submitted for determination, as follows:

1. The parties resolved any disputes between them during the litigation of the action entitled, *The Cassidy Family Trust, dtd 10/07/92 v. First Union Securities Financial Network aka JW Genesis Financial, Prudential Securities, Inc., Michael B. Ralby, Daren L. Skor, and Michael E. Swan*, NASD case number 02-02743, and the claimants in that action voluntarily dismissed Mr. Swan from that action.
2. The arbitrator recommends the expungement of all reference to the action entitled *The Cassidy Family Trust, dtd 10/07/92 v. First Union Securities Financial Network aka JW Genesis Financial, Prudential Securities, Inc., Michael B. Ralby, Daren L. Skor, and Michael E. Swan*, NASD case number 02-02743 from the registration records maintained by the NASD Central Registration Depository ("CRD") of Michael E. Swan, with the understanding that Mr. Swan must obtain confirmation of this Award from a court of competent jurisdiction before the CRD will execute the expungement directive contained in this Award. The arbitrator rules that this expungement is appropriate under the rules in effect prior to the enactment of new NASD Rule 2130 in April 2004. However, if Rule 2130 does apply, the arbitrator makes the following ruling of fact: Mr. Swan was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds. This finding is consistent with Rule 2130 and NASD Notices to Members 04-16.
3. Claimant shall be responsible for all unpaid forum fees and assessments which remain due to the NASD as provided below.

**FORUM FEES:**

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

**Filing fees:**

Initial claim filing fee: \$ 1,200.00

**~~Forum fees & assessments:~~**

~~The arbitrators 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 arbitrators. The following fees have been assessed; and remain unpaid:~~

Description	Amount
<del>_____</del>	<del>\$ _____</del>
<del>_____</del>	<del>\$ _____</del>
<del>_____</del>	<del>\$ _____</del>
<del>_____</del>	<del>\$ _____</del>
Total Remaining Unpaid:	\$ _____

Pursuant to the stipulation of the parties, the unpaid forum fees and assessments are to be assessed solely to the Claimant, including the cost of any hearing sessions necessary for the expungement; therefore,

Claimant's full share: \$ 1,200.00

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

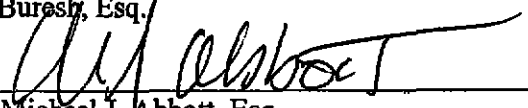
IT IS SO STIPULATED.

**Jones, Bell, Abbott, Fleming & Fitzgerald L.L.P.**

Michael J. Abbott, Esq.

Jill M. Buresh, Esq.

By:

  
Michael J. Abbott, Esq.

Attorneys for Claimant

**Schley Look & Guthrie L.L.P.**

Ian M. Guthrie, Esq.

By:

  
Ian M. Guthrie, Esq.

Attorneys for Respondents The Cassidy Family Trust,  
dtd 10/07/92, Emmett Cassidy, and Mary H. Cassidy

ARBITRATOR'S SIGNATURE:

March 20, 2006   
Suzanne Viau Chamberlain  
Arbitrator