

**AWARD**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Name of Claimant

Susan Ann Johnson

vs.

Case Number: 05-06446

Hearing Site: Minneapolis, Minnesota

Names of Respondents

Wells Fargo Investments, LLC and  
Stephen Edward Kruchten

---

**NATURE OF THE DISPUTE**

Customer vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Susan Ann Johnson ("Claimant") was represented by Richard I. Diamond, Esq., Richard I. Diamond, P.A., Minnetonka, Minnesota.

Wells Fargo Investments, LLC ("Wells Fargo") and Stephen Edward Kruchten ("Kruchten"), hereinafter collectively referred to as "Respondents," were represented by Richard T. Thompson, Esq., Lapp, Libra, Thompson, Stoeber & Pusch, Minneapolis, Minnesota.

**CASE INFORMATION**

The Statement of Claim was filed on or about December 14, 2005. The Submission Agreement of Claimant, Susan Ann Johnson, was signed on or about January 27, 2006.

The Statement of Answer was filed jointly by Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, on or about February 23, 2006. The Submission Agreement of Respondent, Wells Fargo Investments, LLC, was signed on or about April 5, 2006. The Submission Agreement of Respondent, Stephen Edward Kruchten, was signed on or about April 6, 2006.

A Motion for Summary Disposition was filed jointly by Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, on or about August 25, 2006. Claimant filed a Response to the Motion for Summary Disposition on or about September 15, 2006. Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, filed a Reply on or about September 29, 2006.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; churning; misrepresentations; and omission of facts. Claimant alleged that Respondents invested monies collected from a workers compensation settlement into various aggressive mutual funds that according to Claimant were unsuitable and based solely on the amount of commissions earned by Kruchten. Claimant also alleged that Kruchten solicited her to liquidate an IRA for investing when she was unwilling to do so.

Unless specifically admitted in their Answer, Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant does not have a claim against Respondents because her portfolio did not lose money; Claimant's claims are barred by statutes of limitations; and Claimant's claims are barred by the doctrines of waiver, estoppel, laches, ratification and offset.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$ 90,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Costs	Unspecified
Other Monetary Relief	Unspecified
Other Relief	Close all of her accounts

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. In addition, Respondents requested the Panel order an expungement of all references of this matter on Stephen Edward Kruchten's registration records maintained by the Central Registration Depository ("CRD").

### **OTHER ISSUES CONSIDERED & DECIDED**

On or about October 11, 2006, the Panel denied Respondents', Wells Fargo Investments, LLC, and Stephen Edward Kruchten, Motion for Summary Disposition.

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

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent, Stephen Edward Kruchten's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Stephen Edward Kruchten, 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, the Panel has made the following affirmative findings of fact:

- The claim, allegation, or information is factually impossible or clearly erroneous;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
  - 4.) Any relief not specifically enumerated, including attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial Claim filing fee = \$ 225.00

### **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 is Wells Fargo Investments, LLC.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that last four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$ 750.00	= \$ 750.00
Pre-hearing conference: July 6, 2006	1 session
Two (2) Hearing sessions x \$ 750.00	= \$ 1,500.00
Hearing Date: November 15, 2006	2 sessions
<hr/>	
Total Forum Fees	= \$ 2,250.00

The Panel has assessed \$ 1,125 of the forum fees to Susan Ann Johnson.

The Panel has assessed \$ 1,125 of the forum fees jointly and severally to Wells Fargo Investments, LLC and Stephen Edward Kruchten.

### **FEE SUMMARY**

Claimant, Susan Ann Johnson, is liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 375.00

Respondent, Wells Fargo Investments, LLC, is liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, are jointly and severally liable for:

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

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

**ARBITRATION PANEL**

Leo G. Stern, Esq. - Public Arbitrator, Presiding Chair  
Kathy A. Tatone, J.D. - Public Arbitrator  
Scott R. Jensen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

\_\_\_\_\_  
Leo G. Stern, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Kathy A. Tatone, J.D.  
Public Arbitrator

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

\_\_\_\_\_  
Scott R. Jensen  
Non-Public Arbitrator

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

10/20/06  
Date of Service (For NASD office use only)

Respondent, Wells Fargo Investments, LLC, is liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, are jointly and severally liable for:

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

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

**ARBITRATION PANEL**

Leo G. Stern, Esq. - Public Arbitrator, Presiding Chair  
Kathy A. Tatone, J.D. - Public Arbitrator  
Scott R. Jensen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Leo G. Stern  
Leo G. Stern, Esq.  
Public Arbitrator, Presiding Chair

11/17/06  
Signature Date

Kathy A. Tatone  
Kathy A. Tatone, J.D.  
Public Arbitrator

                      
Signature Date

Scott R. Jensen  
Scott R. Jensen  
Non-Public Arbitrator

                      
Signature Date

11/20/06  
Date of Service (For NASD office use only)

Respondent, Wells Fargo Investments, LLC, is liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, are jointly and severally liable for:

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

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

**ARBITRATION PANEL**

Leo G. Stern, Esq. - Public Arbitrator, Presiding Chair  
Kathy A. Tatone, J.D. - Public Arbitrator  
Scott R. Jensen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

\_\_\_\_\_  
Leo G. Stern, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
*Kathy Tatone*  
Kathy A. Tatone, J.D.  
Public Arbitrator

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

\_\_\_\_\_  
*11/20/2006*  
Signature Date

\_\_\_\_\_  
Scott R. Jensen  
Non-Public Arbitrator

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

\_\_\_\_\_  
*11/20/06*  
Date of Service (For NASD office use only)

Respondent, Wells Fargo Investments, LLC, is liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Wells Fargo Investments, LLC and Stephen Edward Kruchten, are jointly and severally liable for:

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

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

**ARBITRATION PANEL**

Leo G. Stern, Esq. - Public Arbitrator, Presiding Chair  
Kathy A. Tatone, J.D. - Public Arbitrator  
Scott R. Jensen - Non-Public Arbitrator

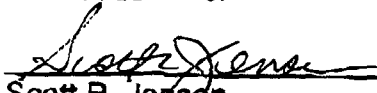
Concurring Arbitrators' Signatures:

\_\_\_\_\_  
Leo G. Stern, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Kathy A. Tatone, J.D.  
Public Arbitrator

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

  
\_\_\_\_\_  
Scott R. Jensen  
Non-Public Arbitrator

11/18/06  
\_\_\_\_\_  
Signature Date

11/20/06  
\_\_\_\_\_  
Date of Service (For NASD office use only)