

AWARD

**NASD, Regulation, Inc.,
Office of Dispute Resolution**

In the matter of the Arbitration Between

**NASD Regulation, Inc.
No.95-03157**

Kevin M. Moriarty

Claimant

vs.

Wells Fargo Securities, Inc.

Respondent

REPRESENTATION OF PARTIES

For Claimant: Edwin L. Bradley, Esq., Kerosky & Bradley, San Francisco, California.

**For Respondent: Gilbert R. Serota, Esq., Howard, Rice, Nemerovski, Canady, Falk & Rabkin,
San Francisco, California.**

CASE INFORMATION

Statement of Claim filed: June 29, 1995

Amendment to Claim filed: May 31, 1996

Claimant's Submission Agreement signed: June 23, 1995

Statement of Answer filed: September 19, 1995

Amendment to Answer filed: June 28, 1996

Respondent's Submission Agreement signed: October 10, 1995

HEARING INFORMATION

The hearing was held in San Francisco, California, as follows:

October 9, 1996	-	1 session
May 7, 1997	-	3 sessions

CASE SUMMARY

Claimant alleged defamation, including libel and slander, with respect to the information

07/25/96

placed on Claimant's form U-5 when his employment with Respondent terminated, thereby substantially harming Claimant's ability to obtain subsequent employment.

Respondent denied the allegations, and asserted that the statements on the form U-5 were reported accurately. Respondent also stated that statements on the U-5 are absolutely privileged and immune from suit under California law. Respondent also asserted that it had acted carefully and properly at all times.

RELIEF REQUESTED

Claimant requested general damages of \$500,000.00, exemplary damages of \$500,000.00, costs of arbitration and attorneys' fees.

Respondent requested dismissal of all claims and an award of all costs of arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

A hearing was convened on October 9, 1996, for the purpose of hearing Respondent's motion to dismiss the claim for defamation. After reading the briefs and listening to oral arguments on the issue, the undersigned arbitrators denied the motion.

The parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASDR, Inc.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The panel finds for the Respondent, Wells Fargo Securities, Inc. all claims, including the claim for punitive damages, are dismissed in their entirety.

The panel found that Mr. Moriarty, and not Mr. William Mark nor Mr. Brian Murray, sold an annuity to Frances Crossfield on June 8, 1994. At the time of this sale, Mr. Moriarty's insurance license had expired and the California Department of Insurance had not yet issued a renewal or current license authorizing Mr. Moriarty to act as Life Agent.

Therefore, the statement on the U-5 that Mr. Moriarty sold an annuity with an expired insurance license is found to be true. The statement and the circumstances surrounding formulation of the U-5 language were found not to be malicious by any definition or inference offered in Claimant's Arbitration Brief, even though the Department of Insurance subsequently issued an

insurance license to Mr. Moriarty with an "Effective Date" of May 1, 1994, and an "Expiration Date" of April 30, 1995.

2. The parties shall bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 10205 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$500.00 non-refundable filing fee.

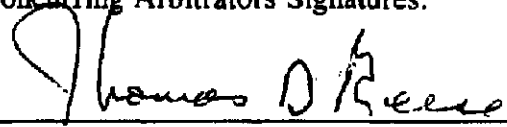
Claimant and Respondent are to split forum fees as follows:

Total fees assessed:	
3 sessions @ \$1000/session	<u>\$3000.00</u>
Claimant's one-half share	\$1500.00
Credit for deposit	<u>(\$1000.00)</u>
Claimant's Balance Due:	<u>\$ 500.00</u>
Respondent's one-half share due:	<u>\$1500.00</u>

Fees are payable to the National Association of Securities Dealers Regulation, Inc.

Concurring Arbitrators Signatures:

Date signed:



Thomas D. Reese.
Presiding Chairperson
Public Arbitrator

5/23/97

Peter Daly
Public Arbitrator

Ruth V. Glick
Securities Industry Arbitrator

Date served: 5/28/1997

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Ruth V. Glick
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5/22/97

Date served: 5/28/1997

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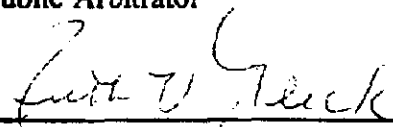
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Date served: 5/28/1997