

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

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In the Matter of the Arbitration Between:

Thierry Jean Coulon v. Wells Fargo Securities, Jay L. Rogers and Mark T. Duvall

Case Number: 01-05818

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Daniel J. Quisenberry, Esq.  
Nevers, Palazzo,  
Maddux & Packard  
Westlake Village, California

For Respondents:

Robert T. Sullwold, Esq.  
Sullwold & Hughes  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: October 21, 2001.

Claimant's Uniform Submission Agreement signed: August 21, 2001.

Statement of Answer filed by Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall: March 11, 2002.

**CASE SUMMARY**

Claimant alleged breach of contract; negligence; failure to supervise; breach of fiduciary duty; misrepresentations; omission of facts and suitability relating to Claimant's investment accounts with Respondent Wells Fargo Securities Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$256,000.00 in compensatory damages, \$275,000.00 in punitive damages and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

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

Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement; however, all said Respondents are required to submit to arbitration and, Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On November 1, 2002, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On November 20, 2002, Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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

- 1) Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall are jointly and severally liable to and shall pay Claimant Thierry Jean Coulon the sum of \$120,000.00 in compensatory damages.

- 2) Respondent Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall are jointly and severally liable to and shall pay Claimant interest in the amount of 5% per annum on \$120,000.00 from October 13, 2000, until the date payment of this Award is made in full.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### FEES

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

#### Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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#### Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wells Fargo Securities Inc is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 6,100.00</b>

#### Forum Fees and Assessments

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

(1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference:           October 18, 2002       1 session	
(1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference:           July 10, 2002           1 session	
(11) Hearing sessions @ \$1,200.00/session	= \$ 13,200.00
Hearings:                           March 24, 2003       2 sessions	

March 25, 2003	2 sessions
March 26, 2003	2 sessions
March 27, 2003	2 sessions
March 31, 2003	2 sessions
April 1, 2003	1 session

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**Total Forum Fees** = \$ **14,850.00**

1. The Panel assessed \$7,425.00 of the forum fees to Claimant Thierry Jean Coulon.
2. The Panel assessed \$7,425.00 of the forum fees jointly and severally to Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Respondents Wells Fargo Securities, Jay L. Rogers  
and Mark T. Duvall requested photocopies: = \$ 7.50

**Fee Summary**

1. Claimant Thierry Jean Coulon is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 7,425.00
Total Fees	= \$ 7,800.00
<u>Less payments</u>	= \$(1,575.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 6,225.00</b>
2. Respondent Wells Fargo Securities Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
<u>Less payments</u>	= \$(6,100.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Wells Fargo Securities Inc., Jay L. Rogers and Mark T. Duvall are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 7,425.00
Administrative Costs	= \$ 7.50
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 7,432.50</b>

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

**ARBITRATION PANEL**

Robert J. Kilpatrick, JD	-	Public Arbitrator, Presiding Chair
Walter J. Huntley, III	-	Public Arbitrator
Robert Bruce MacDonald	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Robert J. Kilpatrick, JD  
Chair, Public Arbitrator

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Signature Date

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Walter J. Huntley, III  
Public Arbitrator

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Signature Date

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Robert Bruce MacDonald  
Non-Public Arbitrator

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Signature Date


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Date of Service  
(NASD USE ONLY)

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Chair, Public Arbitrator

4-14-03  
Signature Date

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Walter J. Huntley, III  
Public Arbitrator

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

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Robert Bruce MacDonald  
Non-Public Arbitrator

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Signature Date

4/17/03  
Date of Service  
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Chair, Public Arbitrator

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Signature Date

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Public Arbitrator

*4-14-03*  
Signature Date

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Robert Bruce MacDonald  
Non-Public Arbitrator

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Signature Date

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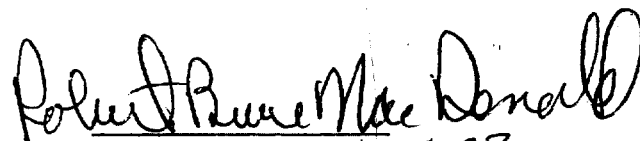
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Public Arbitrator

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Signature Date

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Robert Bruce MacDonald  
Non-Public Arbitrator

  
Signature Date 4-14-03

4/17/03  

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Date of Service  
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