

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Gulabben B. Patel, Claimant v. Wells Fargo Investments, LLC, and Sean Chatman,
Respondents

Case Number: 03-05360

Hearing Site: San Francisco, California

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

David M. McKim, Esq.
Law Offices of David M.
McKim
San Mateo, California

For Respondents:

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

CASE INFORMATION

Statement of Claim filed: July 15, 2003

Claimant's Uniform Submission Agreement signed: August 5, 2003

Statement of Answer filed by Respondents: September 30, 2003

Respondent Wells Fargo Investments, LLC's Uniform Submission Agreement signed:
September 30, 2003

CASE SUMMARY

Claimant alleged breach of contract, negligence, breach of fiduciary duty, misrepresentations, non-disclosures, omission of facts, and unsuitability. Claimant's allegations involved the purchase of Stagecoach Extra Credit Variable Annuity offered by American Skandia.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$84,099.60 in compensatory damages, \$100,000.00 in punitive damages, and interest.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Sean Chatman did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure ("Code") and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On December 9, 2004 and December 15, 2004, Claimant and Claimant's counsel, respectively, 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.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

During the hearing, the parties stipulated to the dismissal of Respondent Sean Chatman with prejudice.

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) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Sean Chatman's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Sean Chatman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Respondent Wells Fargo Investments, LLC, is liable to and shall pay Claimant the sum of \$300.00 as reimbursement for the arbitration claim filing fee.
- 4) Respondent Wells Fargo Investments, LLC, is assessed all NASD forum fees that have accrued in this matter.
- 5) The parties shall, except as noted above, bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to 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 = \$ 300.00

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 Investments, LLC is a party and the following fees are assessed:

Member Surcharge = \$1,700.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$2,750.00

Total Member Fees = **\$5,200.00**

Forum Fees and Assessments

The Panel 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 Chair or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$1,125.00

Pre-hearing conference: February 17, 2005 1 session

(3) Hearing sessions @ \$1,125.00/session = \$3,375.00

Hearings: September 12, 2005 2 sessions

September 13, 2005 1 session

Total Forum Fees = **\$4,500.00**

The Panel assessed the entire \$4,500.00 in forum fees to Respondent Wells Fargo Investments, LLC.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimant	= \$(1,125.00)

2. Respondent Wells Fargo Investments, LLC, is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 9,700.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

William W. Haskell	-	Public Arbitrator, Presiding Chair
D'Anne J. Quinton	-	Public Arbitrator
Linda P. Drucker	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

William W. Haskell
Chair, Public Arbitrator

Signature Date

D'Anne J. Quinton
Public Arbitrator

Signature Date


Linda P. Drucker
Non-Public Arbitrator

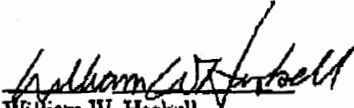
9/14/05
Signature Date

9/14/05
Date of Service

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