

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
Debbie Houston
Laura Lett

Case Number: 10-05826

vs.

Respondent
Wells Fargo Advisors, LLC

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customers vs. Member

The case proceeded under the Optional All Public Panel rule/ All Public Panel

REPRESENTATION OF PARTIES

Debbie Houston and Laura Lett, hereinafter collectively referred to as "Claimants": Brian N. Smiley, Esq. and J. Michael Bishop, Esq., Smiley Bishop & Porter LLP, Atlanta, GA.

Wells Fargo Advisors, LLC, hereinafter referred to as "Respondent": Keith J. Barnett, Esq., Suzanne Bertolett, Esq. and Yvonne Williams, Esq., Sutherland Asbill & Brennan LLP, Atlanta, GA.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 2010.

Debbie Houston signed the Submission Agreement: December 28, 2010.

Laura Lett signed the Submission Agreement: December 28, 2010.

Statement of Answer filed by Respondent on or about: March 1, 2011.

Respondent signed the Submission Agreement: February 23, 2011.

CASE SUMMARY

Claimants asserted the following causes of action: (1) breach of fiduciary duty; (2) violation of FINRA and NYSE Rules including suitability and duty to supervise; (3) breach of contract; (4) negligence; and, (5) fraud. The causes of action relate to investments in the following securities in Claimants' account: Claymore Securities Strategic Income Portfolio Series 17; Calamos Global Dynamic Income Fund; Evergreen Global Dividend Opportunity Fund; Capital World Growth & Income Fund; and, New World Fund.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested: (1) actual damages of no less than \$154,000.00; (2) interest on losses at the legal rate; (3) costs, legal fees, and expenses; (4) punitive damages; and, (5) such other and additional damages and relief which the undersigned arbitrators ("Panel") deemed just and equitable.

In its Statement of Answer, Respondent requested: (1) that the Panel reject Claimants' Statement of Claim in its entirety; (2) attorneys' fees; (3) costs; and, (4) that forum fees be borne by Claimants.

At the close of the hearing, Respondent requested expungement of all references to this matter from the Central Registration Depository ("CRD") record of non-party Anthony Conticelli (CRD#: 3045189).

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

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

The Panel finds that this account consisted of funds that belonged to Ms. Lett; that her daughter's name was on the account for convenience only; that Ms. Lett had no other assets; that her interests were that the funds reasonably last the remainder of her life to pay for her care; that maintaining the principal balance in the account for the benefit of her heirs was a secondary interest at best; and, that her registered representative lost sight of these crucial facts in choosing high-return securities for the account, with their attendant risk. Consequently, the Panel finds in favor of Claimants on the issues of unsuitability of the investment portfolio and the issue of Respondent's failure to supervise its financial advisor, Anthony Conticelli.

Respondent is liable and shall pay to Claimants \$130,000.00 in compensatory damages, prejudgment interest specifically denied.

Respondent is liable and shall reimburse to Claimants the sum of \$300.00 representing the non-refundable portion of Claimants' filing fee previously paid to FINRA Dispute Resolution.

The Panel denies Respondent's request to expunge the CRD record of its financial advisor, non-party Anthony Conticelli.

Each party shall bear its own attorneys' fees and costs.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages, is denied.

FEES

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

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial claim filing fee = \$1,425.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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 event giving rise to the dispute. Accordingly, as a party and member firm, Respondent is assessed the following:

Member surcharge = \$1,700.00

Pre-hearing process fee = \$750.00

Hearing process fee = \$2,750.00

Hearing Session Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$450.00
Pre-hearing conference: October 25, 2011 1 session

One (1) Pre-hearing session with the Panel @ \$1,125.00 = \$1,125.00
Pre-hearing conference: May 11, 2011 1 session

Eight (8) Hearing sessions @ \$1,125.00/session = \$9,000.00
Hearing Dates: November 14, 2011 2 sessions
November 15, 2011 2 sessions
November 16, 2011 2 sessions
November 17, 2011 2 sessions

Total Hearing Session Fees = \$10,575.00

The Panel has assessed \$5,287.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$5,287.50 of the hearing session fees to Respondent.

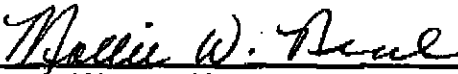
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

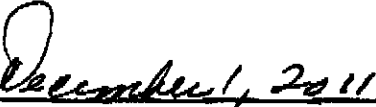
Mollie Wagner Neal	-	Public Arbitrator, Presiding Chairperson
Robert H. Putnam, Jr.	-	Public Arbitrator
Bruce W. Bennett	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Mollie Wagner Neal
Public Arbitrator, Presiding Chairperson



Signature Date

Robert H. Putnam, Jr.
Public Arbitrator

Signature Date

Bruce W. Bennett
Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

ARBITRATION PANEL

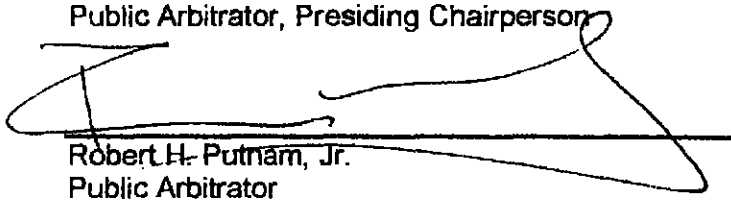
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Signature Date



Robert H. Putnam, Jr.
Public Arbitrator

11-30-11

Signature Date

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Public Arbitrator

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Public Arbitrator

11/30/2011

Signature Date

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