

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimants

R.L. Wagner Trust-Richard Wagner Trustee
Richard Wagner
Donna E. Wagner

Case Number: 10-03743

vs.

Respondents

Walter Ernesto Dolhare
Alan Thomas Hogg
Paul Randelman
Mark Steven Reed
Wells Fargo & Company
Wells Fargo Bank, N.A.
Wells Fargo Brokerage Services, L.L.C.
Wells Fargo Institutional Securities, LLC
Wells Fargo Investments, LLC

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers vs. Members, Associated Persons and Non-Members

The case proceeded under the Majority Public Panel Rule/Majority Public Panel.

REPRESENTATION OF PARTIES

Claimants R.L. Wagner Trust-Richard Wagner Trustee, Richard Wagner and Donna E. Wagner, hereinafter collectively referred to as "Claimants": James R. Ebert, Esq., Kitagawa & Ebert, P.C., Irvine, California and William A. Malis, Esq., Malis Law Offices, Indian Wells, California.

Respondents Walter Ernesto Dolhare, Alan Thomas Hogg, Paul Randelman, Mark Steven Reed, Wells Fargo Brokerage Services, L.L.C., Wells Fargo Institutional Securities, LLC and Wells Fargo Investments, LLC, hereinafter collectively referred to as "Respondents": Peter R. Boutin, Esq. and Julie A. Kole, Esq., Keesal, Young & Logan, San Francisco, California.

Wells Fargo & Company and Wells Fargo Bank, N.A. did not enter appearances in this matter.

CASE INFORMATION

Statement of Claim filed on or about: August 16, 2010

Claimants signed Submission Agreements: August 13, 2010

Amended Statement of Claim filed on or about: November 14, 2010

Second Amended Statement of Claim filed on or about: July 25, 2011

Statement of Answer filed by Respondents on or about: September 6, 2010

Respondents Walter Ernesto Dolhare and Mark Steven Reed signed Submission Agreements: October 27, 2010

Respondent Paul Randelman signed the Submission Agreement: October 28, 2010

Respondent Alan Thomas Hogg signed the Submission Agreement: November 1, 2010

Respondent Wells Fargo Brokerage Services, L.L.C. signed the Submission Agreement: November 1, 2010

Respondent Wells Fargo Institutional Securities, LLC signed the Submission Agreement: November 1, 2010

Statement of Answer to the Amended Statement of Claim filed by Respondents Wells Fargo Brokerage Services, L.L.C., Wells Fargo Institutional Securities, LLC and Wells Fargo Investments, LLC on or about: December 22, 2010

Wells Fargo Investments, LLC did not sign a Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action in the Statement of Claim: misrepresentation; omissions; financial discrimination; inconsistent practices; and breach of fiduciary responsibilities. In the Amended Statement of Claim, Claimants added the following causes of action: conspiracy to commit fraud and fraud. In addition, Claimants added Wells Fargo & Company and Wells Fargo Bank, N.A. as Respondents and dismissed, with prejudice, Respondents Walter Ernesto Dolhare, Alan Thomas Hogg, Paul Randelman and Mark Steven Reed. In Claimants' Second Amended Statement of Claim they added Richard Wagner as a Claimant. The causes of action relate to Claimants' investment in Auction Rate Securities ("ARS").

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Full reimbursement at face value of ARS positions held in the R.L. Wagner Trust in the amount of \$1,450,000.00;
2. Full reimbursement at face value of ARS positions held in the Donna Wagner account in the amount of \$1,825,000.00;
3. Filing fees; and
4. Legal expenses.

In the Amended Statement of Claim and Second Amended Statement of Claim, Claimants requested:

1. General damages in an amount to be proven at the hearing;
2. Interest at the maximum legal rate;
3. Legal fees;
4. Punitive damages;
5. Costs; and
6. Such other and further relief as the Panel may deem just and proper.

At the close of the hearing, Claimants made an additional request for rescission of all securities transactions.

In their Answers to the Statement of Claim and Amended Statement of Claim, Respondents requested:

1. Claimants' claims be dismissed in their entirety with prejudice;
2. Costs;
3. Expungement of this matter from the Central Registration Depository ("CRD") records of Respondents Walter Ernesto Dolhare, Alan Thomas Hogg, Paul Randelman and Mark Steven Reed; and
4. Such other and further relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent Wells Fargo Investments, LLC did not file with FINRA Dispute Resolution a properly executed Submission Agreement, but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Wells Fargo & Company and Wells Fargo Bank, N.A. are not members of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to Claimants' claims against Wells Fargo & Company and Wells Fargo Bank, N.A.

By joint stipulation dated November 14, 2010, the parties agreed to move the hearing location from Seattle, Washington to Los Angeles, California.

On December 22, 2010, Respondents submitted a Motion to Dismiss Claimants' Claims. On February 28, 2011, Claimants submitted a response opposing Respondents' motion. On March 10, 2011, Respondents submitted a reply in further support of their motion. The Panel held a prehearing conference on July 8, 2011 to hear oral arguments on Respondents' Motion to Dismiss. By Order dated July 8, 2011, the Panel denied Respondents' Motion to Dismiss Claimants' Claims.

On July 25, 2011, Claimants submitted a Second Amended Statement of Claim. On August 4, 2011, Claimants submitted the parties' Joint Stipulation to Permit the Claimants to File a Second Amended Statement of Claim. By Order dated August 23, 2011, the Panel accepted the parties' stipulation.

By letter dated April 26, 2012, Respondents advised FINRA Dispute Resolution that they withdrew Respondents Walter Ernesto Dolhare, Alan Thomas Hogg, Paul Randelman and Mark Steven Reed's requests for expungement.

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.

FINDINGS

The Panel found that the evidence did not support a finding of fraud on the part of Respondents or their associated person Patricia McArthur. However, Claimants were not treated fairly by Respondents and there was a breach of fiduciary duty and a breach of contract by Respondents Wells Fargo Brokerage Services, L.L.C. and its successor by merger, Wells Fargo Institutional Securities, LLC, in excluding Claimants from participation in the settlement made between Respondents and the State of California, as reflected in Respondents' Exhibit 77.

AWARD

After considering the pleadings, 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:

1. Respondent Wells Fargo Brokerage Services, L.L.C. and its successor by merger, Respondent Wells Fargo Institutional Securities, LLC, shall repurchase from Claimant Richard Wagner, individually and as trustee of the R.L. Wagner Trust, and Claimant Donna E. Wagner, respectively, the following securities owned by them within thirty (30) days from the date of the award. The securities at issue include:

R.L. Wagner Trust

<u>Description</u>	<u>Quantity</u>	<u>Cost</u>
Invesco VKM Select Sector Muni Trust – Series C	22.0	\$550,000.00
Invesco VKM Trust Invt. Grade Muni – Series H	12.0	\$300,000.00

Donna E. Wagner

<u>Description</u>	<u>Quantity</u>	<u>Cost</u>
Eaton Vance Senior Floating – Series E	4.0	\$100,000.00

PIMCO Corp. Inc. Fund – Cum Pfd – Series F	14.0	\$350,000.00
PIMCO Income Strategy – Series M	6.0	\$150,000.00
Hawaii St. Dept. Budget & Fin. Queens Hlt Sys A	550,000	\$550,000.00
IN Hlth Fac. Find Ath Hosp RV	225,000	\$225,000.00

The purchase shall be at the cost figures stated above, without discount or premium, and shall be paid in lawful currency of the United States of America.

Contemporaneous with payment, Claimants shall execute and deliver to Respondents all documents necessary to effectuate the transfer of the securities to Respondents or their nominee. The obligation of Respondents Wells Fargo Brokerage Services, L.L.C. and Wells Fargo Institutional Securities, LLC hereunder shall be joint and several.

2. Respondent Wells Fargo Brokerage Services, L.L.C. and its successor by merger, Respondent Wells Fargo Institutional Securities, LLC, shall pay to Claimant Donna E. Wagner the total sum of \$6,000.00 in lawful currency of the United States of America within thirty (30) days from the date of the award. This payment is for the disposition below cost of the Grand Traverse security. The obligation of Respondents Wells Fargo Brokerage Services, L.L.C. and Wells Fargo Institutional Securities, LLC hereunder shall be joint and several.
3. Claimants' claims against Respondent Wells Fargo Investments, LLC are denied.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.
5. The Arbitrators have provided an explanation of their decision in this Award. The explanation is for the information of the parties only and is not precedential in nature.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing fee = \$ 1,800.00

**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Wells Fargo Brokerage Services, L.L.C., Wells Fargo Institutional Securities, LLC and Wells Fargo Investments, LLC are assessed the following:

<u>Wells Fargo Brokerage Services, L.L.C.</u>	
Member Surcharge	=\$ 2,800.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 2,200.00

<u>Wells Fargo Institutional Securities, LLC</u>	
Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,200.00

<u>Wells Fargo Investments, LLC</u>	
Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,200.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on a discovery-related motion on the papers
with (1) one arbitrator @ \$200.00 = WAIVED
Claimants submitted (1) discovery-related motion

Two (2) Decisions on discovery-related motions on the papers
with (3) three arbitrators @ \$600.00 = \$ 1,200.00
Claimants submitted (1) discovery-related motion
Respondents submitted (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 1,200.00

1. The Panel has assessed \$600.00 of the discovery-related motion fees jointly and severally to Claimants.
2. The Panel has assessed \$600.00 of the discovery-related motion fees jointly and severally to Respondents Wells Fargo Brokerage Services, L.L.C. and Wells Fargo Institutional Securities, LLC.

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00/session = \$ 2,000.00
Pre-hearing conferences: May 27, 2011 1 session
July 8, 2011 1 session

Fifteen (15) Hearing sessions @ \$1,000.00/session = \$15,000.00
Hearing Dates: February 14, 2012 2 sessions
February 15, 2012 2 sessions
February 16, 2012 2 sessions
February 17, 2012 2 sessions
February 22, 2012 2 sessions
February 24, 2012 2 sessions
April 10, 2012 2 sessions
April 11, 2012 1 session

Total Hearing Session Fees **=\$17,000.00**

1. The Panel has assessed \$500.00 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$16,500.00 of the hearing session fees jointly and severally to Respondents Wells Fargo Brokerage Services, L.L.C. and Wells Fargo Institutional Securities, LLC.


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

ARBITRATION PANEL


Richard M. Norman	-	Public Arbitrator, Presiding Chairperson
Gerald F. Corrigan	-	Public Arbitrator
Kenneth I. Rosenblum	-	Non-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



Richard M. Norman
Public Arbitrator, Presiding Chairperson



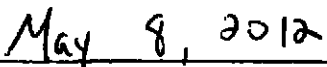
Signature Date

Gerald F. Corrigan
Public Arbitrator

Signature Date

Kenneth I. Rosenblum
Non-Public Arbitrator

Signature Date



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

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Gerald F. Corrigan	-	Public Arbitrator
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Public Arbitrator, Presiding Chairperson

Signature Date



Gerald F. Corrigan
Public Arbitrator



Signature Date

Kenneth I. Rosenblum
Non-Public Arbitrator

Signature Date



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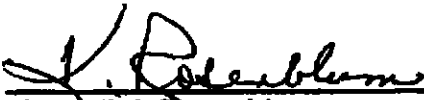
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Richard M. Norman
Public Arbitrator, Presiding Chairperson

Signature Date

Gerald F. Corrigan
Public Arbitrator

Signature Date



Kenneth I. Rosenblum
Non-Public Arbitrator

5/4/12

Signature Date

May 8, 2012

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