

**AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

Name of Claimant

Wilson Family Trust

v.

Arbitration No.  
97-01751

Name of Respondents

R. D. White & Company, and Anthony Orlando

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**REPRESENTATION**

|                                       |  |
|---------------------------------------|--|
| For Claimant:                         | Irving M. Einhorn, Esq.<br>Law Offices of Irving M. Einhorn<br>Los Angeles, California |
| For Respondent R. D. White & Company: | Seth T. Taube, Esq.<br>McCarter & English, L.L.P.<br>Newark, New Jersey                |
| For Respondent Anthony Orlando        | David A. Gehn, Esq.<br>Bachner & Gehn<br>New York, New York                            |

**CASE INFORMATION**

|   |               |
|---|---------------|
| Statement of Claim filed:   | April 1, 1997 |
| Claimant's Submission Agreement signed:                             | May 1, 1997   |
| Joint Statement of Answer and<br>Counter-Claim filed by Respondents | July 7, 1997  |
| Respondent R. D. White & Company's<br>Submission Agreement signed:  | July 7, 1997  |

Respondent Anthony Orlando's  
Submission Agreement signed:

July 7, 1997

### **HEARING INFORMATION**

Pre Hearing Conference Dates / Sessions:                   September 24, 1997 (1 Session)  
  September 9, 1998 (1 Session)

Hearing Dates / Sessions:                                       October 13, 1998 (2 Sessions)

Hearing Location:   Los Angeles, California

### **CASE SUMMARY**

Claimant alleged that Respondents committed fraud, committed the tort of conversion, were negligent, breached their contracts with Claimant, and breached their fiduciary duty owed to the Claimant

Respondents jointly denied each and every allegation of wrongdoing set forth in the Claimant's Statement of Claim.

Counter-Claimants, R. D. White & Company, and Anthony Orlando, alleged that Counter-Respondent, Wilson Family Trust, failed to make a required margin deposit, leaving a debit balance in its account.

### **RELIEF REQUESTED**

Claimant requested \$81,032.28 in compensatory damages, lost earnings, interest, costs, attorney's fees, and punitive damages.

Respondents jointly requested the dismissal of the claim, and an award of costs and attorney's fees be entered against the Claimant.

Counter-Claimants, R. D. White & Company, and Anthony Orlando, requested \$12,000.00 in compensatory damages and interest.

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

The parties have agreed that the Award in this matter may be executed either in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

**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) All of Claimant's claims are denied in their entirety.
- 2) Counter-Respondent Wilson Family Trust is liable to and shall pay Counter-Claimant, Anthony Orlando, the sum of \$12,400.00 in compensatory damages.
- 3) Expunge Anthony Orlando's name and any reference to him that is contained in Case Number 97-01751 from the CRD.
- 4) Each party is to bear its own costs, including attorney's fees.

**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

|   |                     |
|---|---------------------|
| Two Pre-Hearing Conference Session @ \$600.00 / Session | = \$1,200.00        |
| <u>Two Hearing Sessions @ \$600.00 / Session</u>        | <u>= \$1,200.00</u> |
| Total Fees Assessed Against Claimant                    | = \$2,400.00        |
| <u>Credit for Claimant's Hearing Session Deposit</u>    | <u>= \$500.00</u>   |
| Claimant's Balance Due                                  | = \$1,900.00        |

Fees are payable to NASD Regulation, Inc.

**OTHER FEES**

Pursuant to Rule 10333 of the Code, Respondent R. D. White & Company has paid to NASD Regulation, Inc. the \$300.00 member surcharge previously invoiced.

ARBITRATORS

| <u>Name</u>             | <u>Public / Industry</u> |
|-------------------------|--------------------------|
| David M. Shacter, Esq.  | Public Arbitrator        |
| Harriet A. Kottick, CFP | Industry Arbitrator      |
| Lou von Dyl             | Public Arbitrator        |

Concurring Arbitrators' Signatures



David M. Shacter, Esq.

Harriet A. Kottick, CFP

Lou von Dyl

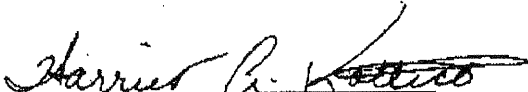
Date of Service: October 23, 1998

**ARBITRATORS**

| <u>Name</u> .....       | <u>Public / Industry</u> |
|-------------------------|--------------------------|
| David M. Shacter, Esq.  | Public Arbitrator        |
| Harriet A. Kottick, CFP | Industry Arbitrator      |
| Lou von Dyl             | Public Arbitrator        |

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
David M. Shacter, Esq.

  
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Harriet A. Kottick, CFP

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