

**STIPULATED AWARD**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Vivian A. Anderson,

Claimant,

-vs-

00-01006  
Detroit, Michigan

Equitas America LLC, Bernard L.  
Hemker, Clark F. Colton, Jr.,  
Kenneth D. Warnick, Dennis J.  
Brown, and Equitas America  
Holding Company, Inc., Jointly  
And Severally,

Respondents

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**REPRESENTATION OF PARTIES**

Claimant, Vivian Anderson ("Claimant"): Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Respondents, Equitas America LLC, Bernard L. Hemker, Clark F. Colton, Jr., Kenneth D. Warnick, Dennis J. Brown, and Equitas America Holding Company, Inc. ("Respondents"): Gary M. Saretsky, Esq., Hertz, Schram & Saretsky, P.C. Bloomfield Hills, Michigan.

**CASE INFORMATION**

Statement of Claim filed on or about March 1, 2000. Claimant filed a Submission Agreement on or about February 7, 2000. Respondents filed an Answer and Affirmative Defenses on or about May 5, 2000. Claimant withdrew her claims with prejudice on or about August 20, 2001.

**CASE SUMMARY**

Claimant asserted the following legal theories in support of her recovery: breach of fiduciary duty, breach of Michigan's Uniform Securities Act, breach of Michigan's Consumer Protection Act, breach of NASD Rules, breach of contract, respondent superior, control person liability, failure to exercise due diligence, and sale of unregistered securities.

Respondents denied the allegations made in the Statement of Claim and asserted legal and factual defenses to the claims.

**RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$55,000
Exemplary/Punitive Damages	Unspecified

Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief	Unspecified

Respondents requested dismissal of Claimant's claims, costs and attorneys' fees.

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

Claimant, having had an opportunity to review the records and documents produced in pre-hearing discovery and discuss the contents thereof with her counsel, stipulates and agrees with Respondents to the expungement of all reference to the above-captioned arbitration from all registration records of Respondents, Equitas America LLC, Bernard L. Hemker, Clark F. Colton, Jr., Kenneth D. Warnick, Dennis J. Brown, and Equitas America Holding Company, Inc. maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and

Claimant has agreed to withdraw and dismiss all claims in the above-entitled case against Respondents with prejudice and without costs.

The parties have further agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the parties' submissions, representations and stipulations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1) All claims having been withdrawn, the same are hereby dismissed with prejudice and without costs, except such costs as specified below.
- 2) The panel recommends the expungement of any and all references to the above captioned arbitration from Respondents, Equitas America LLC, Bernard L. Hemker, Clark F. Colton, Jr., Kenneth D. Warnick, Dennis J. Brown, and Equitas America Holding Company, Inc. registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) That any relief requested by Claimant, including exemplary and/or punitive damages, is hereby denied and dismissed with prejudice.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

NASD Dispute Resolution, Inc. waived the non-refundable filing fees for the claim:

Initial claim filing fee = \$225.00 (waived)

#### 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 events giving rise to the dispute. In this matter, the member firm is Equitas America, LLC.

Member surcharge = \$1,000.00  
Pre-hearing process fee = \$600.00  
Hearing process fee = \$1,500.00

#### Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

One (1) Pre-hearing session with Panel x \$750.00 = \$750.00  
Pre-hearing conference: December 4, 2000 1 session  
Total Forum Fees = \$750.00

The Arbitration Panel has assessed \$375.00 of the forum fees to Vivian A. Anderson.  
The Arbitration Panel has assessed \$375.00 of the forum fees to Equitas America, LLC.

### Fee Summary

Claimant, Vivian A. Anderson, is liable for:

Forum Fees	= \$	375.00
Total Fees	= \$	375.00
Less payments	= \$	375.00
Balance Due NASD Dispute Resolution, Inc.	= \$	0.00

Respondent, Equitas America, LLC is liable for:

Member Fees	= \$ 3,100.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 3,475.00
Less payments	= \$ 3,475.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Stewart C.W. Weiner, Esq. - Public Arbitrator, Presiding Chair  
James C. Steffl, Esq. - Public Arbitrator  
Norman A. Samson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Stewart C.W. Weiner, Esq.  
Stewart C.W. Weiner, Esq.  
Public Arbitrator, Presiding Chair

05/08/02  
Signature Date

/s/ James C. Steffl, Esq.  
James C. Steffl, Esq.  
Public Arbitrator

05/09/02  
Signature Date

/s/ Norman A. Samson  
Norman A. Samson  
Non-Public Arbitrator

05/07/02  
Signature Date

05/09/02  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 00-01006  
Award Page 4 of 4

Respondent, Equitas America, LLC is liable for:

Member Fees	= \$ 3,100.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 3,475.00
Less payments	= \$ 3,475.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Stewart C.W. Weiner, Esq. - Public Arbitrator, Presiding Chair  
James C. Steffl, Esq. - Public Arbitrator  
Norman A. Samson - Non-Public Arbitrator

Concurring Arbitrators:

Stewart C.W. Weiner, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

James C. Steffl, Esq.  
Public Arbitrator

May 9, 2002  
Signature Date

Norman A. Samson  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 00-01008  
Award Page 4 of 4

Respondent, Equitas America, LLC is liable for:

Member Fees	= \$ 3,100.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 3,475.00
Less payments	= \$ 3,475.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Stewart C.W. Weiner, Esq. - Public Arbitrator, Presiding Chair  
James C. Steffl, Esq. - Public Arbitrator  
Norman A. Samson - Non-Public Arbitrator

Concurring Arbitrators:

Stewart C.W. Weiner, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

James C. Steffl, Esq.  
Public Arbitrator

Signature Date

Norman A. Samson  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Respondent, Equitas America, LLC is liable for:

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**ARBITRATION PANEL**

Stewart C.W. Weiner, Esq. - Public Arbitrator, Presiding Chair

James C. Steffl, Esq. - Public Arbitrator

Norman A. Samson - Non-Public Arbitrator

Conciling Arbitrators:

  
\_\_\_\_\_  
Stewart C.W. Weiner, Esq.,  
Public Arbitrator, Presiding Chair

5/8/02  
\_\_\_\_\_  
Signature Date

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James C. Steffl, Esq.,  
Public Arbitrator

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

\_\_\_\_\_  
Norman A. Samson  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD office use only)