

HAWAII  
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Joseph G. Truhan, Claimant v. Abdulla Akhterhusain Kagalwalla, Francisco Savorelli, First Associated Securities Group, Inc., Hoggett Kalas & Company, Inc. n/k/a Stellar Investments, Inc., Securities America, Inc. and Stellar Investments, LLC a/k/a Stellar Investments, Respondents

NASD Case No.: 00-01116

Hearing Site: Tampa, Florida

**REPRESENTATION OF PARTIES**

For Joseph G. Truhan  
("Claimant")

Patrick A. Davis, Esq.  
Patrick Davis, P.A.  
Clearwater, Florida

Abdulla Akhterhusain Kagalwalla  
("Kagalwalla")

appeared pro se

William M. Rishoi, Esq.  
Snyderburn Rishoi & Swann  
Winter Park, Florida and  
withdrew as counsel on  
February 13, 2001

Francisco Savorelli  
("Savorelli")

appeared pro se until deceased

Jeffrey Mark Sherman, Esq.  
St. Petersburg, Florida  
appeared as counsel on  
March 22, 2001 and  
withdrew as counsel on  
April 3, 2001

William M. Rishoi, Esq.  
Snyderburn Rishoi & Swann  
Winter Park, Florida and  
withdrew as counsel on  
February 13, 2001

First Associated Securities Group, Inc.  
("First Associated")

did not appear

Hoggett Kalas & Company, Inc.  
n/k/a Stellar Investments, Inc.  
("Hoggett Kalas" and/or "Stellar Investments, Inc.")

appeared pro se

Jeffrey Mark Sherman, Esq.  
St. Petersburg, Florida

appeared as counsel on  
March 22, 2001 and  
withdrew as counsel on  
April 3, 2001

William M. Rishoi, Esq.  
Snyderburn Rishoi & Swann  
Winter Park, Florida and  
withdrew as counsel on  
February 13, 2001

For Securities America, Inc.  
("Securities America")

Peter B. Andrews, Esq.  
Richard A. Maniskas, Esq.  
Dennis C. Dice, Esq.  
Marshall, Dennehey, Warner  
Coleman & Goggin  
Philadelphia, Pennsylvania

For Stellar Investments, LLC  
a/k/a Stellar Investments  
("Stellar Investments, LLC")

William M. Rishoi, Esq.  
Snyderburn Rishoi & Swann  
Winter Park, Florida

#### **CASE INFORMATION**

Statement of Claim filed on or about: March 14, 2000.

Claimant signed Uniform Submission Agreements on: March 7, 2000 and May 30, 2000.

Amended Statement of Claim filed on or about: May 23, 2001.

Respondent Kagalwalla signed the Uniform Submission Agreement on: June 12, 2000.

Respondent Savorelli signed the Uniform Submission Agreement on: June 13, 2000.

Respondent First Associated did not file a Statement of Answer or executed Uniform Submission Agreement.

Respondent Hoggett Kalas signed the Uniform Submission Agreement on: June 13, 2000.

Respondent Stellar Investments, Inc. signed the Uniform Submission Agreement on: June 13, 2000.

Statement of Answer filed by Respondents Hoggett Kalas, Stellar Investments, Inc., Savorelli and Kagalwalla on or about: June 7, 2000.

Respondent Securities America signed the Uniform Submission Agreement on: June 29, 2000.

Motion for More Definite Statement, Preliminary Answer and Cross Claim filed by Respondent Securities America on or about: August 7, 2000.

Response to Motion for More Definite Statement filed by Claimant on or about: December 21, 2000.

Motion to Dismiss Cross Claim, or alternatively, Statement of Answer filed by Respondents Savorelli and Kagalwalla on or about: September 27, 2000.

Response to Motion to Dismiss Cross Claim filed by Respondent Securities America on or about: October 6, 2000.

Reply to Response to Motion to Dismiss Cross Claim filed by Respondents Savorelli and Kagalwalla on or about: October 11, 2000.

Sur-Reply to Motion to Dismiss Cross Claim filed by Respondent Securities America on or about: November 22, 2000.

Respondent Stellar Investments, LLC did not file a Statement of Answer or executed Uniform Submission Agreement.

Motion to Dismiss Statement of Claim filed by Respondent Stellar Investments, LLC on or about: May 25, 2000.

Response to Respondent Stellar Investments, LLC's Motion to Dismiss Statement of Claim filed by Claimant on or about: December 22, 2000.

### **CASE SUMMARY**

Claimant asserted the following causes of action: 1) violations of Rules 10b-5 and 15c-1 of the Securities Exchange Act of 1934; 2) violations of Rule 17a of the Securities Act of 1933; 3) violations of Section 517.301 of the Florida Securities and Investor Protection Act; 4) common law fraud; 5) breach of fiduciary duty; 6) gross negligence; 7) negligent supervision; 8) violations of Chapter 772, the Florida Civil Remedies for Criminal Practices Act; and 9) violations of Section 517.12, Florida Statutes. The causes of action relate to: 1) the trading of options in Information Management Res, Nice Systems, Ltd. and Security Dynamics; and 2) the churning of Claimant's account, including the sale of shares of stock in Asyt Tech, Inc. and Transcript Int'l, Inc.

Respondents Hoggett Kalas, Stellar Investments, Inc., Savorelli and Kagalwalla denied the allegations of wrongdoing made in the Statement of Claim.

Respondent Securities America denied the allegations of wrongdoing made in the Statement of Claim and asserted a Cross Claim against Respondents Savorelli and Kagalwalla for indemnification.

Respondents Savorelli and Kagalwalla denied the allegations of wrongdoing in the Cross Claim.

### **RELIEF REQUESTED**

Claimant requested: 1) actual and treble damages in the total amount between \$100,000.00 and \$500,000.00; 2) punitive damages; 3) interest; 4) costs; 5) attorneys' fees; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents Hoggett Kalas and Stellar Investments, Inc. requested: 1) dismissal of the Statement of Claim; 2) costs; and 3) attorneys' fees.

Respondents Savorelli and Kagalwalla requested: 1) dismissal of the Statement of Claim; 2) dismissal of the Cross Claim; 3) costs; and 4) attorneys' fees.

Respondent Securities America requested: 1) dismissal of the Statement of Claim; 2) costs; 3) attorneys' fees; and 4) an award of full indemnity, costs and attorneys' fees on its Cross Claim against Respondents Savorelli and Kagalwalla.

Respondent Stellar Investments, LLC requested dismissal of the Statement of Claim.

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

Respondent First Associated did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the Panel on all issues submitted.

Respondent First Associated did not appear in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the Panel determined that Respondent First Associated has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without Respondent First Associated present, in accordance with the Code.

Respondent Securities America did not appear at the evidentiary hearing. Upon review of the file and the representations made by/on behalf of the Claimant, the Panel determined that: 1) Respondent Securities America has been properly served with the Statement of Claim; and 2) Respondent Securities America has answered the Statement of Claim, has asserted a Cross Claim and has received due notice of the hearing; and 3) that arbitration of the matter would proceed without Respondent Securities America present, in accordance with

the Code.

On or about April 21, 2000, NASD Dispute Resolution, Inc. received notification from Michelle Phillips wherein Ms. Phillips advised that: 1) Ms. Phillips is in receipt of the Uniform Submission Agreement and Statement of Claim; 2) Respondent First Associated filed a full and voluntary BDW with the NASD; 3) Respondent First Associated's BDW was accepted and approved by NASD; 4) Respondent First Associated is fully dissolved; and 5) Ms. Phillips is no longer employed with Respondent First Associated.

On or about May 25, 2000, Respondent Stellar Investments, LLC filed its Motion to Dismiss Statement of Claim. On March 7, 2001, the Panel granted Respondent Stellar Investment, LLC's Motion to Dismiss Statement of Claim and dismissed, with prejudice, all claims asserted against Respondent Stellar Investments, LLC.

On or about June 8, 2000, NASD Dispute Resolution, Inc. received notification from Anthony Martellaro wherein Mr. Martellaro advised that Respondent First Associated has not conducted business since February 3, 2000.

On or about August 7, 2000, Respondent Securities America filed its Motion for More Definite Statement as to the Statement of Claim. On April 19, 2001, the Panel granted Respondent Securities America's Motion for More Definite Statement as to Statement of Claim. Thereafter, Claimant filed his Amended Statement of Claim on or about May 23, 2001.

On or about September 27, 2000, Respondents Savorelli and Kagalwalla filed their Motion to Dismiss Cross Claim of Respondent Securities America. On April 19, 2001, the Panel denied Respondent Savorelli and Kagalwalla's Motion to Dismiss Cross Claim of Respondent Securities America.

On or about January 10, 2001, Respondent Securities America filed its Motion for Dismissal with Prejudice for Claimant's Failure to Respond to Respondent Securities America's Motion for More Definite Statement. On March 7, 2001, the Panel denied Respondent Securities America's Motion for Dismissal with Prejudice for Claimant's Failure to Respond to Respondent Securities America's Motion for More Definite Statement.

On or about April 3, 2001, counsel for Respondent Savorelli filed with NASD Dispute Resolution, Inc. a Suggestion of Death advising that Respondent Savorelli is deceased.

On or about June 4, 2001, Respondent Securities America filed its Response to Claimant's Amended Statement of Claim wherein Respondent Securities America, in part, moved to strike the Amended Statement of Claim. On June 15, 2001, the Panel denied Respondent Securities America's Motion to Strike Amended Statement of Claim.

On or about July 5, 2001, Claimant filed his Emergency Motion to Permit Amendment to Paragraph 94 of the Statement of Claim ("motion to amend") wherein Claimant sought to

allege a cause of action for the operation of a branch office without the benefit of registration, in violation of Section 517.12, Florida Statutes. On July 12, 2001, the Panel granted Claimant's motion to amend the Statement of Claim wherein the Panel accepted Claimant's amendment to the Statement of Claim.

On or about July 13, 2001, Respondent Securities America notified NASD Dispute Resolution that Claimant and Respondent Securities America had entered into settlement. Therefore, the Panel made no determination with respect to the claims asserted by Claimant against Respondent Securities America in the Statement of Claim.

The parties at the evidentiary hearing 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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Savorelli and Kagalwalla are liable, jointly and severally, and shall pay to Claimant compensatory damages and pre-judgment interest in the total amount of \$190,000.00. The Panel finds liability for: 1) violations of Rules 10b-5 and 15c-1 of the Securities Exchange Act of 1934; 2) violations of Rule 17a of the Securities Act of 1933; 3) violations of Section 517.301 of the Florida Securities and Investor Protection Act; 4) common law fraud; 5) breach of fiduciary duty; 6) gross negligence; 7) negligent supervision; and 8) violations of Section 517.12, Florida Statutes. Post-judgment interest shall accrue in accordance with Rule 10330(h) of the Code.

2. Respondent Kagalwalla is liable and shall pay to Claimant compensatory damages in the amount of \$45,500.00, pre-judgment interest specifically excluded, for violations of Section 517.301, Florida Statutes. Post-judgment interest shall accrue in accordance with Rule 10330(h) of the Code.

3. The Panel finds no liability as to Respondents Savorelli and Kagalwalla for violations of Chapter 772, the Florida Civil Remedies for Criminal Practices Act.

4. Claimant's requests for punitive damages against Respondents Savorelli and Kagalwalla are denied.

5. Respondents Savorelli and Kagalwalla are liable, jointly and severally, and shall pay to Claimant reasonable attorneys' fees and costs in amounts to be determined by a court of competent jurisdiction. Claimant's entitlement to attorneys' fees is awarded pursuant to Section 517.211, Florida Statutes.

6. All claims asserted by Claimant against Respondents First Associated and Hoggett

Kalas are dismissed, with prejudice.

7. Claimant's requests for punitive damages, attorneys' fees and costs against Respondents First Associated and Hoggett Kalas are denied.
8. All claims asserted by Claimant against Respondent Stellar Investments, LLC are dismissed, with prejudice.
9. Claimant's requests for punitive damages, attorneys' fees and costs against Respondent Stellar Investments, LLC is denied.
10. All claims asserted by Respondent Securities America against Respondents Savorelli and Kagalwalla are dismissed, with prejudice.
11. Respondent Securities America's requests for attorneys' fees against Respondents Savorelli and Kagalwalla are denied.
12. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
Cross claim filing fee	= \$1,000.00

#### **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.

In this matter, Respondent First Associated was a terminated member firm at the time of service of the Statement of Claim. Therefore, no member fees were assessed to Respondent First Associated.

In this matter, Respondent Hoggett Kalas k/n/a Stellar Investments, Inc. was a member firm at the time the member fees accrued and is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

In this matter, Respondent Securities America is a member firm and a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

In this matter, Respondent Stellar Investments, LLC was not a member firm. Therefore, no member fees were assessed to Respondent Stellar Investments, LLC.

#### **Adjournment Fees**

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

#### **Forum Fees and Assessments**

The Panel has the authority to assess 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 a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: May 3, 2001	1 session

Six (6) Pre-hearing sessions with Panel x \$1,125.00	= \$ 6,750.00
Pre-hearing conferences: December 11, 2000	1 session
March 7, 2001	1 session
March 22, 2001	1 session
April 19, 2001	1 session
June 15, 2001	1 session
July 12, 2001	1 session

Five (5) Hearing sessions x \$1,125.00	= \$ 5,625.00
Hearing Dates: July 17, 2001	2 sessions
July 18, 2001	2 sessions
July 19, 2001	1 session

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Total Forum Fees	= \$12,825.00
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The Panel has assessed \$6,412.50 for the forum fees to Claimant.

The Panel has assessed \$6,412.50 of the forum fees jointly and severally to Respondents Savorelli and Kagalwalla.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided



without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**FEE SUMMARY**

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$6,412.50

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Total Fees = \$6,712.50

Less payments = \$1,425.00

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Balance Due NASD Dispute Resolution, Inc. = \$5,287.50

Respondent Hoggett Kalas n/k/a Stellar Investments, Inc. be and hereby is solely liable for:

Member Fees = \$4,600.00

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Total Fees = \$4,600.00

Less payments = \$ 947.60

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Balance Due NASD Dispute Resolution, Inc. = \$3,652.40

Respondent Securities America be and hereby is solely liable for:

Cross Claim Filing Fee = \$1,000.00

Member Fees = \$4,600.00

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Total Fees = \$5,600.00

Less payments = \$5,600.00

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Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondents Savorelli and Kagalwalla be and hereby are jointly and severally liable for:

Forum Fees = \$6,412.50

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Total Fees = \$6,412.50

Less payments = \$ 0.00

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Balance Due NASD Dispute Resolution, Inc. = \$6,412.50

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

David S. Bland, CPA	-	Public Arbitrator, Presiding Chair
Walter Witrock	-	Non-Public Arbitrator
Brenda Kay Blount, CPA	-	Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Davis S. Bland, CPA  
Public Arbitrator, Presiding Chair

Signature Date

/s/  
Walter Witrock  
Non-Public Arbitrator

Signature Date

/s/  
Brenda Kay Blount, CPA  
Public Arbitrator

Signature Date

July 27, 2001  
Date of Service


All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

David S. Bland, CPA  
Walter Witrock  
Brenda Kay Blount, CPA

- Public Arbitrator, Presiding Chair
- Non-Public Arbitrator
- Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
David S. Bland, CPA  
Public Arbitrator, Presiding Chair

7/27/01  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Walter Witrock  
Non-Public Arbitrator

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

\_\_\_\_\_  
Brenda Kay Blount, CPA  
Public Arbitrator

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

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Date of Service

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

David S. Bland, CPA	-	Public Arbitrator, Presiding Chair
Walter Witrock	-	Non-Public Arbitrator
Brenda Kay Blount, CPA	-	Public Arbitrator

**Concurring Arbitrators' Signatures**

David S. Bland, CPA  
Public Arbitrator, Presiding Chair

Walter Witrock

Walter Witrock  
Non-Public Arbitrator

Signature Date

7/27/01

Signature Date

Brenda Kay Blount, CPA  
Public Arbitrator

Signature Date

Date of Service

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

David S. Bland, CPA	-	Public Arbitrator, Presiding Chair
Walter Witrock	-	Non-Public Arbitrator
Brenda Kay Blount, CPA	-	Public Arbitrator


**Concurring Arbitrators' Signatures**

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Davis S. Bland, CPA  
Public Arbitrator, Presiding Chair

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Non-Public Arbitrator

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Signature Date

  
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Brenda Kay Blount, CPA  
Public Arbitrator

  
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Signature Date

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Date of Service