

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Ethelmae Grothe, individually and as trustee of the Ethelmae Grothe 1990 Trust, Claimant v. **Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns**, Respondents

Case Number: 00-03504

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

John G. Caparell, Esq.
Law Offices of John G. Caparell
San Diego, California

For Respondent Sy Leavitt Company, Inc.
n/k/a American Pacific Securities, Inc.

William J. Schurmann
American Pacific Securities, Inc.
Escondido, California

For Respondent Jack White & Company, Inc.
n/k/a TD Waterhouse Investor Services, Inc.

John L. Erikson, Jr., Esq.
Jones, Bell, Abbott, Fleming & Fitzgerald, LLP
Los Angeles, California

For Respondents Centurion Capital
Management, L.L.C. and Richard C. Johns:

G. Mark Brewer, Esq.
The Brewer Law Firm
La Jolla, California

CASE INFORMATION

Statement of Claim filed: August 30, 2000

Amended Statement of Claim filed: February 27, 2001

Claimant's Uniform Submission Agreement filed: August 30, 2000

Statement of Answer filed by Respondent Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc.: November 10, 2000

Respondent Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc.'s Uniform Submission Agreement signed: November 13, 2000

Statement of Answer filed by Respondent Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc.: May 3, 2001

Statement of Answer to Amended Statement of Claim filed by Respondent Centurion Capital Management, L.L.C. : September 25, 2001

Respondent Centurion Capital Management, L.L.C.'s Uniform Submission Agreement signed August 31, 2001

Statement of Answer filed by Respondent Richard C. Johns: December 4, 2000

Statement of Answer to Amended Statement of Claim filed by Respondent Richard C. Johns: March 16, 2001

Respondent Richard C. Johns' Uniform Submission Agreement signed: December 5, 2000

CASE SUMMARY

In her Original and Amended Statements of Claim, Claimant alleged suitability, breach of fiduciary duty, failure to supervise, selling away, aiding and abetting, breach of contract, common law fraud, intentional misrepresentation, negligent misrepresentation, and federal securities fraud. The case involved the purchase and/or sale of Aldine Income Associates, LLC, a limited partnership.

Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns denied the allegations of wrongdoing set forth in Claimant's Original and Amended Statements of Claim.

RELIEF REQUESTED

In her Original and Amended Statements of Claim, Claimant requested compensatory damages of \$82,000.00, lost opportunity damages of \$12,299.94 and/or interest at the rate of 10% per annum on said amount compounded annually until date of award, punitive damages of \$246,000.00, and recovery of commissions and other fees charged by Respondents. Claimant also sought attorney's fees and arbitration costs.

Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns requested dismissal of the Claimant's Original and Amended Statements of Claim in their entirety.

Additionally, Respondent Jack White & Company, Inc. n/k/a T.D. Waterhouse Investor Services Inc. sought reimbursement of arbitration costs and Respondents Centurion Capital Management, L.L.C. and Richard C. Johns sought reimbursement of attorney's fees and arbitration costs.

OTHER ISSUES CONSIDERED AND DECIDED

On November 30, 2001, Claimant settled with Respondent Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc.

Respondent Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc. did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

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

- 1) Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns are jointly and severally liable to and shall pay Claimant \$94,983.27 in compensatory damages and interest.
- 2) Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns are jointly and severally liable to and shall pay Claimant \$300.00 to reimbursement for filing fees.
- 3) Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns are jointly and severally liable and shall pay Claimant \$1,000.00 for expert witness fees.
- 4) Claimant's request for punitive damages is denied.

- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy.

The member firm Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

The member firm Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc. is party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: October 29, 2001 1 session	
1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: July 24, 2001 1 session	
6 Hearing sessions @ \$1,125.00/session	= \$ 6,750.00
Hearings: December 3, 2001 2 sessions	
December 4, 2001 2 sessions	
December 5, 2001 2 sessions	

Total Forum Fees = **\$ 8,325.00**

The Panel assessed \$ 8,325.00 of the forum fees jointly and severally to Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns.

Fee Summary

1. Claimant Ethelmae Grothe, individually and as trustee of the Ethelmae Grothe 1990 Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$(1,425.00)
Refund due Claimant	= \$(1,125.00)
2. Respondent Sy Leavitt Company Inc. n/k/a American Pacific Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	= \$ (4,600.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00
3. Respondent Jack White & Company, Inc. n/k/a TD Waterhouse Investor Services, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,600.00

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4. Respondents Sy Leavitt Company, Inc. n/k/a American Pacific Securities, Inc., Centurion Capital Management, L.L.C., and Richard C. Johns are charged jointly and severally with the following fees and costs:

Forum Fee = \$ 8,325.00

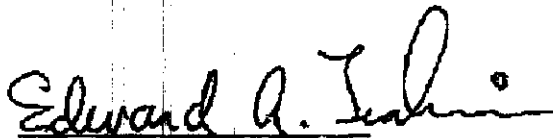
Balance Due NASD Dispute Resolution, Inc. = \$ 8,325.00

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

ARBITRATION PANEL

Edward A. Trabin, Esq.	-	Public Arbitrator, Presiding Chair
James J. Dohbin, Esq.	-	Public Arbitrator
Richard M. Leigh	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Edward A. Trabin, Esq.
Chair, Public Arbitrator

Dec. 14, 2001
Signature Date

Edward A. Trabin, Esq.
Chair, Public Arbitrator

James J. Dohbin, Esq.
Public Arbitrator

Signature Date

James J. Dohbin, Esq.
Public Arbitrator

Richard M. Leigh
Non-Public Arbitrator

Signature Date

12/20/01
Date of Service

ARBITRATION PANEL

Edward A. Trabin, Esq.	-	Public Arbitrator, Presiding Chair
James J. Dobbie, Esq.	-	Public Arbitrator
Richard M. Leigh	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edward A. Trabin, Esq.
Chair, Public Arbitrator

Signature Date

Edward A. Trabin, Esq.
Chair, Public Arbitrator

James J. Dobbie, Esq.
Public Arbitrator

Signature Date

James J. Dobbie, Esq.
Public Arbitrator



Richard M. Leigh
Non-Public Arbitrator

12/14/01

Signature Date

12/20/01

Date of Service