

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Sybil Peachlum

Case Number: 00-04797

Name of the Respondent  
First Capital Brokerage Services, Inc.  
n/k/a Waypoint Brokerage Services

Hearing Site: Philadelphia, PA

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**REPRESENTATION OF PARTIES**

Claimant, Sybil Peachlum ("Peachlum"), hereinafter referred to as "Claimant", represented herself at the hearing.

Respondent, First Capital Brokerage Services, Inc. n/k/a Waypoint Brokerage Services ("Waypoint"), hereinafter referred to as "Respondent": Benjamin F. Riggs, Jr., Esq., Waypoint, Harrisburg, Pennsylvania.

**CASE INFORMATION**

Statement of Claim filed on or about November 22, 2000.

Claimant signed the Uniform Submission Agreement on October 26, 2000.

Claimant filed a Motion to Amend the Pleadings to Add Kenneth Fetrow, President of Waypoint Brokerage, as an Individual and a Motion for Punitive Damages Against the Respondent on June 19, 2002.

Claimant made a request for a fee waiver.

Statement of Answer, Motion to Dismiss and Motion to Strike Statement of Claim filed by Respondent on or about May 16, 2001.

Respondent signed the Uniform Submission Agreement on May 14, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: errors/charges, collection, negligence and misrepresentation/non-disclosure. The causes of action relate to the purchase and sale of various common stock in cash and margin accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimant's Statement of Claim fails to state a claim upon which relief can be granted; claims barred

by the doctrines of estoppel, waiver, ratification and laches; and, failure to mitigate damages.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 37,630.66
Punitive Damages	\$500,000.00
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondent requested that the Statement of claim be dismissed, the Statement of Claim be stricken, and that Claimant reimburse Respondent for costs and attorney's fees.

In a counter-claim Respondent requested that Claimant reimburse Respondent for any additional filing fees that it has incurred as a result of the Claimant's claim, punitive damages in the amount of \$500,000.00 in punitive damages, and attorney's fees in defending this claim.

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

Respondent's Motion to Dismiss and Motion to Strike the Statement of Claim were denied prior to the hearing on the merits.

Claimant's Motion to Amend the Pleadings to Add Kenneth Fetrow, President of Waypoint Brokerage, as an Individual and Motion for Punitive Damages Against the Respondent were denied.

Claimant's request for fee waiver was denied.

The parties have agreed that the Award in this matter may be executed in counterpart copies of that a handwritten, signed Award may be entered.

### **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. That Claimant's claim for compensatory damages is denied in its entirety;
2. That Claimant's claim for punitive damages is denied in its entirety;
3. That Respondent's counter-claim is denied in its entirety;
4. That Respondent's claim for punitive damages is denied in its entirety;
5. That the parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,

6. That any and all claims not specifically addressed herein are denied in their entirety.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 375
Counter claim	= \$ 500

#### **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. Accordingly, Waypoint is a party.

Member surcharge	= \$ 2,000
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$ 3,500

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were waived:

April 30, 2002 adjournment by Claimant	= \$ 1,200
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#### **Forum Fees and Assessments**

The Panel has assessed forum 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:

One (1) Pre-hearing session with Panel @ \$ 1,200	= \$ 1,200
Pre-hearing conference:      October 29, 2002      1 session	

Eight (8) Hearing sessions @ \$ 1,200	= \$ 9,600
Hearing Dates:      April 22, 2002      2 sessions	
April 23, 2002      2 sessions	
April 29, 2002      1 session	
July 1, 2002      2 sessions	
July 2, 2002      1 session	

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Total Forum Fees	= \$10,800
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1. The Panel has assessed \$ 5,400.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 5,400.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375
Forum Fees	= \$ 5,400
Total Fees	= \$ 5,775
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 5,775

3. Respondent is solely liable for:

Filing Fee	= \$ 500
Member Fees	= \$ 6,100
Forum Fees	= \$ 5,400
Total Fees	= \$12,000
Less payments	= \$ 7,600
Balance Due NASD Dispute Resolution	= \$ 4,400

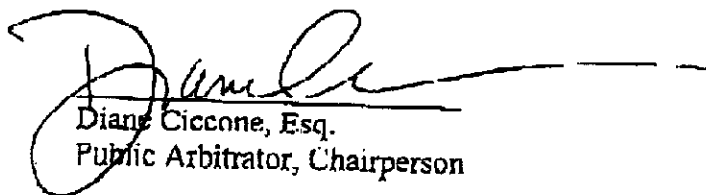
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

Diane Ciccone, Esq.  
Edward Blumstein, Esq.  
Malcolm J. Irving

ARBITRATION PANEL

- Public Arbitrator, Chairperson  
- Public Arbitrator, Panelist  
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

  
Diane Ciccone, Esq.  
Public Arbitrator, Chairperson

8-2-02  
Signature Date

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Edward Blumstein, Esq.  
Public Arbitrator, Panelist

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

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Malcolm J. Irving  
Non-Public Arbitrator, Panelist

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

August 8, 2002  
Date of Service (For NASD Dispute Resolution office use only)

ARBITRATION PANEL

Diane Ciccone, Esq.  
Edward Blumstein, Esq.  
Malcolm J. Irving

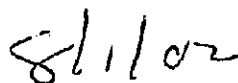
- Public Arbitrator, Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Diane Ciccone, Esq.  
Public Arbitrator,

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Signature Date



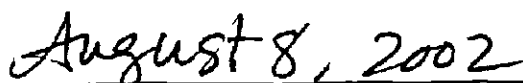


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Edward Blumstein, Esq.  
Public Arbitrator

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Malcolm J. Irving  
Non-Public Arbitrator

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Edward Blumstein, Esq.	-	Public Arbitrator, Panelist
Malcolm J. Irving	-	Non-Public Arbitrator

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Public Arbitrator

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