

**Award**  
**NASD Dispute Resolution, Inc.**

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*In the Matter of the Arbitration Between*

**Names of Claimants**

Wayne R. and Judy F. Measor, JTWROS

Case No. 01-00547

**Names of Respondents**

John R. Exley, III  
J.P. Turner & Company, Inc.

Hearing Site: Tampa, Florida

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**REPRESENTATION OF PARTIES**

Wayne R. and Judy F. Measor, JTWROS, hereinafter collectively referred to as "Claimants", appeared pro se.

For John R. Exley, III ("Exley") and J.P. Turner & Company, Inc. ("JPT"), hereinafter collectively referred to as "Respondents": Dianne L. Papierniak, Legal Counsel, JPT, Atlanta, GA.

**CASE INFORMATION**

Statement of Claim filed on or about: February 1, 2001.

Claimants signed the Uniform Submission Agreement: February 14, 2001.

Statement of Answer filed by Respondents on or about: April 11, 2001.

Respondent Exley signed the Uniform Submission Agreement: September 18, 2001.

Respondent JPT signed the Uniform Submission Agreement: April 6, 2001.

**CASE SUMMARY**

Claimants asserted that Respondents engaged in unauthorized trading and buying on margin in their account without authorization. The causes of action relate to the purchase and sale of unspecified security products.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: the Statement of Claim fails to state a cause of action upon which relief may be granted; the equitable doctrines of laches, unclean hands, and estoppel; and, all activity in Claimants' account was suitable for and consistent with the Claimants' stated investment objectives.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$15,000.00 and punitive damages of \$10,000.00.

Respondents requested dismissal of the Statement of Claim and that all costs of this arbitration be borne by Claimants.

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

The parties have 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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Exley and JPT are liable, jointly and severally, for unauthorized trading, breach of contract and breach of fiduciary duty and shall pay to Claimants compensatory damages in the sum of \$3,953.13.

Any and all relief requests not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$125.00
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#### **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, the member firm is a party.

Member surcharge	= \$400.00
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#### **Adjournment Fees**

Adjournments requested during these proceedings:

No requests for adjournment were filed in this matter.

**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: August 7, 2001 1 session

One (1) Hearing session x \$450.00 = \$450.00  
Hearing Date: September 19, 2001 1 session

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Total Forum Fees = \$900.00

The Panel has assessed \$450.00 of the forum fees jointly and severally to Claimants.  
The Panel has assessed \$450.00 of the forum fees jointly and severally to Respondents.

**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.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee = \$125.00  
Forum Fees = \$450.00

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Total Fees = \$575.00  
Less payments = \$575.00

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

Respondent JPT be and hereby is solely liable for:

Member Fees = \$400.00

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Total Fees = \$400.00  
Less payments = \$400.00

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

Respondents Exley and JPT be and hereby are jointly and severally liable for:

Forum Fees = \$450.00

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Total Fees = \$450.00

Less payments = \$400.00

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Balance Due NASD Dispute Resolution, Inc. = \$50.00

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

**ARBITRATION PANEL**

Muriel Desloovere, Esq.

- Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

/s/

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Muriel Desloovere, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

October 26, 2001

Date of Service (For NASD-Dispute Resolution office use only)

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Respondents Exley and JPT be and hereby are jointly and severally liable for:

Forum Fees = \$450.00

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Total Fees = \$450.00

Less payments = \$400.00

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Balance Due NASD Dispute Resolution, Inc. = \$50.00

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

**ARBITRATION PANEL**

Muriel Desloovere, Esq.

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**



Muriel Desloovere, Esq.  
Public Arbitrator, Presiding Chair

10/25/01  
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)