

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

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In the Matter of the Arbitration Between

Name of Claimants

Southwest Securities, Inc. and SWS Financial Services, Inc.

and

01-00637  
Dallas, Texas

Name of Respondents

Gary N. and Mary Ann Rogers

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**REPRESENTATION OF PARTIES**

Southwest Securities, Inc. and SWS Financial Services, Inc. ("**Claimants**") were represented by Corbet F. Bryant, Jr., Esq., Carrington, Coleman, Sloman & Blumenthal, Dallas, Texas.

Gary N. and Mary Ann Rogers ("**Respondents**") were represented by Gary N. Rogers. Mary Ann Rogers did not appear at the hearing.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 7, 2001. Answer of Southwest Securities, Inc. and SWS Financial Services, Inc. to Counterclaim of Gary and Mary Ann Rogers was filed on or about May 22, 2001. Submission Agreements of Claimants Southwest Securities, Inc. and SWS Financial Services, Inc. was signed on February 5, 2001 by Jerome S. Wade.

Statement of Claim [Answer and Counterclaim] was filed by Respondents Gary N. and Mary Ann Rogers on or about April 20, 2001.

**CASE SUMMARY**

Claimants alleged that Respondents were responsible for the debit balance in their account that resulted after the liquidation of the account when Respondents failed to meet numerous margin calls.

Respondents denied the allegations set forth in the Statement of Claim. It was alleged that Claimants: were incompetent; improperly executed trades; and were grossly negligent. Respondents specifically stated that Claimants' agents failed to execute trades necessary for the trading strategy employed by them in a timely manner, resulting in hundreds of thousands of dollars in losses.

### **RELIEF REQUESTED**

Claimants requested that upon hearing of this matter the Arbitration Panel enter its award against Respondents Gary N. Roger, Sr. and Mary Ann Rogers, jointly and severally, for \$905,723.19 with interest thereon and attorneys' fees, for an award against Gary N. Rogers, Sr. individually, of \$930,156.79 in actual damages with interest thereon, and against him for \$2,000,000.00 for punitive damages with post-judgment interest thereon (less a credit for any sums received from the other customers on their debts) plus an award of any other costs that may be incurred in this matter.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded \$2,000,000.00 in punitive damages, with post judgment interest thereon.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents Gary N. and Mary Ann Rogers did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the terms of the Customer Agreement between the parties and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Gary N. and Mary Ann Rogers shall be and hereby are jointly and severally liable for and shall pay to Claimants Southwest Securities, Inc. and SWS Financial Services, Inc. the sum of \$905,723.19 (**Nine Hundred Five Thousand Seven Hundred Twenty Three Dollars and Nineteen Cents**) as compensatory damages.
2. Interest at the rate of 6% per annum is awarded on the above stated sum from and inclusive of January 1, 2001 to and inclusive of the date of this award. Interest at the rate of 10% per annum is awarded from the date of this award until payment in full.
3. Respondents Gary N. and Mary Ann Rogers shall be and hereby are jointly and severally liable for and shall pay to Claimants Southwest Securities, Inc. and SWS Financial Services,

Inc. the sum of \$18,100.00 (**Eighteen Thousand One Hundred Dollars and No Cents**) as attorneys' fees. The undersigned arbitrators find authority for this award of attorneys' fees in the contract between the parties.

4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

### **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	= \$2,000.00
Counter claim/Cross claim/Third Party Claim filing fee	= \$ 500.00

#### **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, the member firms are Southwest Securities, Inc. and SWS Financial Services, Inc.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

#### **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(s) with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference(s): December 4, 2001 1 session	

One (1) Pre-hearing session(s) with Panel x \$1,200.00	= \$1,200.00
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Pre-hearing conference(s):	August 29, 2001	1 session	
Four (4) Hearing sessions x	\$1,200.00		= \$4,800.00
Hearing Date(s):	January 30, 2002	2 sessions	
	<u>April 8, 2002</u>	<u>2 sessions</u>	
Total Forum Fees			= \$6,450.00

The Arbitration Panel has assessed \$3,225.00 of the forum fees to Southwest Securities, Inc. and SWS Financial Services, Inc.

The Arbitration Panel has assessed \$3,225.00 of the forum fees jointly and severally to Gary N and Mary Ann Rogers.

#### Fee Summary

Claimant, Southwest Securities, Inc., shall be and hereby is liable for:

<u>Member Fees</u>	= \$ 7,600.00
Total Fees	= \$ 7,600.00
<u>Less payments</u>	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,500.00

Claimant, SWS Financial Services, Inc., shall be and hereby is liable for:

<u>Member Fees</u>	= \$ 7,600.00
Total Fees	= \$ 7,600.00
<u>Less payments</u>	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,500.00

Claimants, Southwest Securities, Inc. and SWS Financial Services, Inc. shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 2,000.00
<u>Forum Fees</u>	= \$ 3,225.00
Total Fees	= \$ 5,225.00
<u>Less payments</u>	= \$ 3,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,225.00

Respondents, Gary N. and Mary Ann Rogers, shall be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 3,225.00
Total Fees	= \$ 3,725.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,725.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Jeff Abrams - Public Arbitrator, Presiding Chair  
Priscilla Kim Park, J.D. - Public Arbitrator  
Raymond E. Jennison - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Jeff Abrams  
Jeff Abrams  
Public Arbitrator, Presiding Chair

August 29, 2002  
Signature Date

/s/ Priscilla Kim Park  
Priscilla Kim Park, J.D.  
Public Arbitrator

August 23, 2002  
Signature Date

/s/ Raymond E. Jennison  
Raymond E. Jennison  
Non-Public Arbitrator

September 4, 2002  
Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 01-00637  
Award Page 5 of 5

Respondents, Gary N. and Mary Ann Rogers, shall be and hereby are jointly and severally liable for:

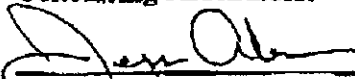
Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 3,225.00
Total Fees	= \$ 3,725.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,725.00

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Priscilla Kim Park, J.D. - Public Arbitrator  
Raymond E. Jennison - Non-Public Arbitrator

Concurring Arbitrators:

  
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Jeff Abrams  
Public Arbitrator, Presiding Chair

8-29-2002  
\_\_\_\_\_  
Signature Date

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Priscilla Kim Park, J.D.  
Public Arbitrator

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

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Raymond E. Jennison  
Non-Public Arbitrator

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

NASD Dispute Resolution, Inc.  
Arbitration No. 01-00637  
Award Page 5 of 5

Respondents, Gary N. and Mary Ann Rogers, shall be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 3,225.00</u>
Total Fees	= \$ 3,725.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,725.00

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Public Arbitrator, Presiding Chair

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Priscilla Kim Park, J.D.  
Public Arbitrator

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Raymond E. Jennison  
Non-Public Arbitrator

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Signature Date

8/23/02  
\_\_\_\_\_  
Signature Date

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Signature Date

Respondents, Gary N. and Mary Ann Rogers, shall be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 3,225.00
Total Fees	= \$ 3,725.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,725.00

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