

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Vickie D. M. Rigsby, Claimant vs. Bradley Warren Sodergren; Berthel Fisher & Co. Financial Services, Inc.; John G. Kinnard & Co., Inc.; Stifel Nicolaus & Co., Inc.; Kirkpatrick, Pettis, Smith, Polian, Inc., Respondents

Case Number: 01-01128

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Carrye Washington, Esq., Ontario,
California

For Respondent Bradley Warren Sodergren:

Bradley Warren Sodergren, First
Union Securities, Inc., West Des
Moines, Iowa

For Respondent Kirkpatrick, Pettis, Smith,
Polian, Inc.:

Dena L. Narbaitz, Esq., Steefel
Levitt & Weiss PC, San Francisco,
California

For Respondent Berthel Fisher & Company:
Financial Services, Inc.:

Vincent D. Louwagie, Esq., Anthony
Ostlund & Baer P.A., Minneapolis,
Minnesota

For Respondent John G. Kinnard & Co., Inc.:

F. Chet Taylor, Esq., John G.
Kinnard & Co., Inc., Minneapolis,
Minnesota

For Respondent Stifel Nicolaus & Co., Inc.:

Jennifer L. Gentin, Esq., Strook &
Stroock & Lavan LLP, Los Angeles,
California

CASE INFORMATION

Statement of Claim filed on or about March 5, 2001.

Claimant's Uniform Submission Agreement signed February 19, 2001.

Statement of Answer filed by Respondent, Bradley W. Sodergren, on or about May 29, 2001.

Respondent, Bradley W. Sodergren, signed the Uniform Submission Agreement May 29, 2001.

Statement of Answer filed by Respondent, John G. Kinnard & Co., on or about June 4, 2001.

Respondent, John G. Kinnard & Co., signed Uniform Submission Agreement on or about June 4, 2001.

Statement of Answer filed by Respondent, Berthel Fisher & Co., Inc., on or about June 5, 2001.

Respondent, Berthel Fisher & Co., Inc., signed the Uniform Submission Agreement April 20, 2001.

Statement of Answer filed by Respondent, Stifel, Nicolaus & Co., Inc., on or about January 15, 2002.

Respondent, Stifel, Nicolaus & Co., Inc., signed the Uniform Submission Agreement January 17, 2002.

CASE SUMMARY

Claimant alleged the following claims with respect to Claimant's investments managed by Respondents: (1) breach of contract, (2) breach of fiduciary duty, (3) negligence, (4) failure to supervise, (5) misrepresentation, (6) failure to disclose (7) churning, (8) omission of fact; and (9) suitability.

Respondents denied Claimant's allegations of wrongdoing and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. \$400,000.00, representing compensatory damages;
2. Punitive damages;
3. Attorney's fees; and
4. Costs associated with the dispute.

Respondents requested:

1. Claimant's Claim be dismissed in its entirety; and
2. Costs and attorneys' fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

A pre-hearing conference was held on April 16, 2002. During the conference, the Panel heard argument on Respondent Berthel Fisher & Company Financial Services, Inc.'s Motion to Dismiss on Alternative Grounds and Respondent Stifel Nicolaus & Co., Inc.'s Motion to Dismiss. During the pre-hearing conference, the Panel entered an Order dismissing with prejudice Respondents Berthel Fisher & Company Financial Services, Inc., Stifel Nicolaus & Co., Inc. and John G. Kinnard & Co., Inc.

Claimant settled with Respondent Kirkpatrick, Pettis, Smith, Polian, Inc., on or about June 13, 2002.

The Panel determined that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After Claimant presented her case at the evidentiary hearing on June 17, 2002, Respondent Bradley Warren Sodergren made a Motion to Dismiss on the grounds that Claimant failed to prove her claim. After considering the pleadings, the testimony and documentation presented, the Panel granted Respondent Bradley Warren Sodergren's Motion to Dismiss. Accordingly, all Claimant's claims, including punitive damages, are dismissed with prejudice. The Claimant will bear all forum fees.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bradley Warren Sodergren's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Bradley Warren Sodergren must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution ("NASD DR") received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$300.00

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 parties and the following fees are assessed respectively against each member firm:

Respondent Kirkpatrick, Pettis, Smith, Polian, Inc.:

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

Respondent Berthel Fisher & Company Financial Services, Inc.:

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

Respondent John G. Kinnard & Co., Inc.:

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

Respondent Stifel Nicolaus & Co., Inc.:

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

Forum Fees and Assessments

The Panel assesses forum fees 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/Panel. The following fees are assessed:

One (1) Pre-hearing session with the Chair @ \$450.00/session = \$ 450.00
Pre-hearing conference: March 21, 2002 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: December 18, 2001 1 session
April 16, 2002 1 session

One (1) Hearing session with the Panel @ \$1,125.00/session = \$1,125.00
Hearing session: June 17, 2002 1 session

Total Forum Fees = \$3,825.00

The Panel assessed the \$3,825.00 in forum fees to Claimant, Vickie D. M. Rigsby.

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.

The parties did not incur administrative costs.

Fee Summary

1. Claimant, Vicky D. M. Rigsby, is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$3,825.00
Total Fees	= \$4,125.00
Less Waiver of Filing Fee	=(\$ 300.00)
<u>Less Payments</u>	=(\$ 0.00)
Balance Due NASD-DR	= \$3,825.00

2. Respondent, Kirkpatrick, Pettis, Smith, Polian, Inc., is charged with the following fees and costs:

<u>Member Fees</u>	= \$4,600.00
<u>Total Fees</u>	= \$4,600.00
<u>Less Payments</u>	=(\$4,600.00)
Balance Due NASD-DR	= \$ 0.00

3. Respondent, Berthel Fisher & Company Financial Services, Inc., is charged with the following fees and costs:

<u>Member Fees</u>	= \$4,600.00
<u>Total Fees</u>	= \$4,600.00
<u>Less Payments</u>	=(\$4,600.00)
Balance Due NASD-DR	= \$ 0.00

4. Respondent, John G. Kinnard & Co., Inc., is charged with the following fees and costs:

<u>Member Fees</u>	= \$4,600.00
<u>Total Fees</u>	= \$4,600.00
<u>Less Payments</u>	=(\$2,100.00)
Balance Due NASD-DR	= \$2,500.00

5. Respondent, Stifel Nicolaus & Co., Inc., is charged with the following fees and costs:

<u>Member Fees</u>	= \$4,600.00
<u>Total Fees</u>	= \$4,600.00
<u>Less Payments</u>	=(\$4,600.00)
Balance Due NASD-DR	= \$ 0.00

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

ARBITRATION PANEL

Michael Harrison, Esq.

James Crary, Esq.

Ronald Gershon

- Public Arbitrator, Presiding Chair

- Public Arbitrator

- Industry Arbitrator

Concurring Arbitrators' Signatures



Michael Harrison, Esq.

Public Arbitrator, Presiding Chair

7/31/02
Signature Date

James Crary, Esq.
Public Arbitrator

Signature Date

Ronald Gershon
Industry Arbitrator

Signature Date

8.2.02
Date of Service
(For NASD office use only)

ARBITRATION PANEL

Michael Harrison, Esq.	-	Public Arbitrator, Presiding Chair
James Crary, Esq.	-	Public Arbitrator
Ronald Gershon	-	Industry Arbitrator

Concurring Arbitrators' Signatures

Michael Harrison, Esq.
Public Arbitrator, Presiding Chair

Signature Date

James Crary, Esq.
Public Arbitrator

Signature Date



Ronald Gershon
Industry Arbitrator

Signature Date



Date of Service
(For NASD office use only)