

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

In the Matter of the Arbitration Between

Name of Claimant

Frank J. Cullen

Case No. 01-01252

Name of Respondents

Donaldson, Lufkin & Jenrette Securities Corporation  
and James Martin

**REPRESENTATION OF PARTIES**

Claimant Frank J. Cullen ("Claimant" or "Cullen") was represented by Brian A. Carlis, Esq. of the law firm of Stark & Stark, Lawrenceville, NJ

Respondents Donaldson, Lufkin & Jenrette Securities Corp. (DLJ) and James Martin ("Martin") hereinafter collectively referred to as "Respondents" were represented by David J. Campbell, Esq. of the law firm Bressler Amery & Ross, P.C., New York, NY

**CASE INFORMATION**

Statement of Claim filed on: March 9, 2001

Claimant's signed the Uniform Submission Agreement: December 20, 2000

Statement of Answer filed by Respondents on: May 23, 2001

DLJ's Uniform Submission Agreement was signed by Richard S. Jaffee on: October 10, 2001

Martin signed his Uniform Submission Agreement: October 9, 2001

**CASE SUMMARY**

Claimant asserted the following causes of action: (i) unsuitability (ii) misrepresentation, (iii) excessive trading/churning, (iv) excessive use of margin, (v) failure to supervise, (vi) negligence, (vii) breach of contract, (viii) breach of fiduciary duty, (ix) fraud, (x) violation of federal and state securities laws and (xi) violation of the Pennsylvania Unfair Trade Practices and Consumer Law. Claimant attached a Margin Agreement signed by the Respondents promising to repay any losses in their account.

Respondents denied the claims in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested the following damages:

Compensatory Damages	\$350,000.00
Interest	amount unspecified
Treble damages	\$1,050,000.00

Respondents requested the following relief:

That the Claim be dismissed with prejudice  
Award of costs

**OTHER ISSUES CONSIDERED AND DECIDED**

Claimant voluntarily dismissed Mr. Martin with prejudice.

Prior to the conclusion of the hearing, Claimant and Respondents agreed to enter a Stipulation of Award, which they executed on the date set forth below. This Stipulation of Award is being submitted to the panel for its consideration and execution. The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

Claimant and Respondent DLJ then agreed to settle this matter.

*pm*  
**AWARD**

On April 3, 2000<sup>2</sup>, the parties entered an agreement to present to the panel a Stipulated Award. Now, in lieu of hearing and upon motion of both parties for entry of an award, the written stipulation thereto, the panel hereby grants the motion and enters this award granting the following relief:

- 1) Each party shall bear its own costs and expenses with the exception of fees specified below.
- 2) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent James Martin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent James Martin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Any and all relief not specifically addressed herein is denied.

**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 = \$ 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. In this matter, the member firm is SunTrust Equitable Securities Corporation.

Member surcharge = \$2,500  
Pre-hearing process fee = \$ 600  
Hearing process fee = \$4,500

**Forum Fees and Assessments**

The arbitrator (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 Panel x \$1,200 = \$1,200  
Pre-hearing conference: November 12, 2001 1 session

One (1) Pre-Hearing session with one arbitrator x \$450 = \$ 450  
Pre Hearing conference: March 25, 2002 1 session

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Total Forum Fees = \$1,650

The panel has assessed forum fees in the amount of \$825 to Claimant.  
The panel has assessed forum fees in the amount of \$825 to DLJ.

**Fee Summary**

Claimant Frank J. Cullen is assessed the following fees:

Filing Fee	= \$ 500
<u>Forum Fees</u>	<u>= \$ 825</u>
Total Fees	= \$ 1,325
Less payments	= <del>\$ 3,800</del> 1,700 <i>DW</i>
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,475 375 <i>DW</i>
<i>Refund Owed to Claimant</i>	

Respondent Member Firm is assessed the following Fees

Member Fees = \$ 7,600

Forum Fees	= \$ 825
Total Fees	= \$ 8,425
Less payments	= \$ 4,600
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,825

All balances are due and payable to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

David L. Williams

David L. Williams  
Public Arbitrator, Presiding Chairperson

5/13/2002

Signature Date

Melvin R. Drukin  
Public Arbitrator, Panelist

Signature Date

Joseph G. DiGiacomo  
Non Public Arbitrator, Panelist

Signature Date

June 3, 2002

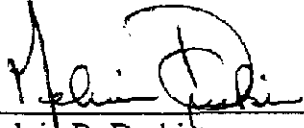
Date Stipulated Award Served by NASD-DR



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

  
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*See corrections made:*

- 1) Award - Page 3 (Fee Summary - Payment Frank Puller)*
- 2) Change date to the year 2002 under award - Page 2*

**Filing Fees**

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

Initial claim filing fee = \$ 500

**Member Fees**

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Forum Fees = \$ 825  
Total Fees = \$ 1,325  
Less payments = \$ 2,800  
Balance Due NASD Dispute Resolution, Inc. = \$ 2,475

*Refund owed to claimant*

*1,700*  
*\$ 375*

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Member Fees = \$ 7,600

**RELIEF REQUESTED**

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