

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

William D. Connor

and

01-02319
Denver, Colorado

Name of Respondent

First Union Securities, Inc.

REPRESENTATION OF PARTIES

William D. Connor ("**Claimant**") was represented by Jeffrey J. Scott, Esq., Head & Associates, P.C., Denver, Colorado.

First Union Securities, Inc. ("**Respondent**") was represented by William D. Nelson, Esq., Rothgerber Johnson & Lyons, LLP, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about May 4, 2001. Submission Agreement of Claimant William D. Connor was signed on April 30, 2001.

Motion to Strike Settlement Discussion within Statement of Claim and Motion for Bifurcation of Hearings and Panels was filed on or about June 7, 2001. Motion for Bifurcation of Hearings and Panels was filed on or about June 19, 2001. Motion for Bifurcation of Hearings and Panels was filed on or about October 30, 2001. Statement of Answer was filed by Respondent First Union Securities, Inc. on or about August 29, 2001. Amended Statement of Answer was filed on or about December 13, 2001. Reply of Respondent to Claimant's Response to First Union's Renewed Motion to Bifurcate and Claimant's Motion for Summary Judgment was filed on or about February 5, 2002.

CASE SUMMARY

Claimant alleged that Respondent violated various securities laws, committed various torts against him and breached a contract to settle. Specifically, Claimant alleged that despite his conservative investment objectives and desire to protect his principal, while earning income, his account representative made unsuitable recommendations. Claimant alleged that the account representative recommended what turned out to be a high concentration of his assets in similar closed end mutual funds that were essentially junk bond, non-investment grade and emerging market debt funds. It was

also alleged that the account representative made material misrepresentations by stating that the securities were conservative with high income. Claimant further alleged that Respondent allowed him to utilize margin, which was not suitable for him.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant was an active and knowledgeable participant in deciding what to do and how to handle his account. It was stated that Claimant was a high yield oriented investor who understood the concept of risk and specifically the risk associated with his investment strategy.

RELIEF REQUESTED

Claimant requested that this Arbitration Panel award him the actual damages for the losses sustained in the account, plus interest, in an amount to be proved at hearing, treble damages for Respondent's deceptive trade practices, and punitive damages for the outrageous conduct of Respondent and its agent and employee. Claimant also requested that he receive an award for his attorney fees and costs of this proceeding, including expert witness fees.

Respondent requested that the Arbitration Panel deny the claims asserted by Claimant in his Statement of Claim and that Claimant take nothing by his Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

Respondent First Union Securities, Inc. did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared, presented evidence and offered testimony at the hearing is bound by the determination of the arbitration panel on all issues submitted.

On February 12, 2002, the parties were advised of the Arbitration Panel's decision to deny Respondent's Renewed Motion to Bifurcate and to Dismiss.

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. Respondent First Union Securities, Inc. shall be and hereby is liable for and shall pay to Claimant William D. Connor the sum of \$243,114.00 (**Two Hundred Forty Three Thousand One Hundred Fourteen Dollars and no Cents**) as compensatory damages.
2. Respondent First Union Securities, Inc. shall be and hereby is liable for and shall pay to Claimant William D. Connor the sum of \$60,778.50 (**Sixty Thousand Seven Hundred Seventy Eight Dollars and Fifty Cents**) as attorneys' fees.
3. Interest at the rate of 8% per annum is awarded on the above stated sums from and inclusive of May 2, 2000 to and inclusive of the date this Award is paid.
4. Respondent First Union Securities, Inc. shall be and hereby is liable for and shall pay to Claimant William D. Connor the sum of \$2,400.00 (**Two Thousand Four Hundred Dollars and no Cents**) as reimbursement of expert witness fees.
5. 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.
6. 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 = \$250.00

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 firm is First Union Securities, Inc.

Member surcharge = \$1,200.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$2,000.00

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 Panel x \$1,000.00	= \$1,000.00
Pre-hearing conference(s): November 12, 2001 1 session	
Six (6) Hearing sessions x \$1,000.00	= \$6,000.00
Hearing Date(s): February 27, 2002 2 sessions	
February 28, 2002 2 sessions	
March 1, 2002 2 sessions	
Total Forum Fees	= \$7,000.00

The Arbitration Panel has assessed \$3,500.00 of the forum fees to William D. Connor.

The Arbitration Panel has assessed \$3,500.00 of the forum fees to First Union Securities, Inc.

Fee Summary

Claimant, William D. Connor, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= <u>\$3,500.00</u>
Total Fees	= \$3,750.00
<u>Less payments</u>	= <u>\$1,250.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,500.00

Respondent, First Union Securities, Inc., shall be and hereby is liable for:

Member Fees	= \$3,800.00
<u>Forum Fees</u>	= <u>\$3,500.00</u>
Total Fees	= \$7,300.00
<u>Less payments</u>	= <u>\$1,800.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$5,500.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Mari C. Bush, Esq. - Public Arbitrator, Presiding Chair
Carol J. Zamperini - Public Arbitrator
Walter G. Bryniarski - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Mari C. Bush
Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair

June 3, 2002
Signature Date

/s/ Carol J. Zamperini
Carol J. Zamperini
Public Arbitrator

June 3, 2002
Signature Date

/s/ Walter G. Bryniarski
Walter G. Bryniarski
Non-Public Arbitrator

June 10, 2002
Signature Date

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Arbitration No. 01-02319
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ARBITRATION PANEL

Mari C. Bush, Esq. - Public Arbitrator, Presiding Chair
Carol J. Zamperini - Public Arbitrator
Walter G. Bryniarski - Non-Public Arbitrator

Concurring Arbitrators:

Mari C Bush
Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair

6-3-2002
Signature Date

Carol J. Zamperini
Carol J. Zamperini
Public Arbitrator

Signature Date

Walter G. Bryniarski
Walter G. Bryniarski
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 01-02319
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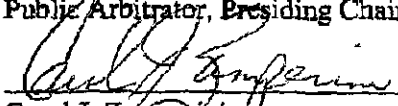
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ARBITRATION PANEL

Mari C. Bush, Esq. - Public Arbitrator, Presiding Chair
Carol J. Zamperini - Public Arbitrator
Walter G. Bryniarski - Non-Public Arbitrator

Concurring Arbitrators:

Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair


Carol J. Zamperini
Public Arbitrator

Walter G. Bryniarski
Non-Public Arbitrator

Signature Date

6-3-02
Signature Date

Signature Date

NASD Dispute Resolution, Inc.
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ARBITRATION PANEL

Mari C. Bush, Esq. - Public Arbitrator, Presiding Chair
Carol J. Zamperini - Public Arbitrator
Walter G. Bryniarski - Non-Public Arbitrator

Concurring Arbitrators:

Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair

Carol J. Zamperini
Public Arbitrator

Walter G. Bryniarski
Walter G. Bryniarski
Non-Public Arbitrator

Signature Date

Signature Date

6/10/02
Signature Date