

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

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In the Matter of the Arbitration Between

Name of Claimant

Russell Campbell

and

01-03231  
Minneapolis, Minnesota

Name of Respondents

Kirlin Securities, Inc.  
Douglas Durcanin

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**REPRESENTATION OF PARTIES**

Russell Campbell ("Claimant") was represented by Daniel D. Hill, Esq., Maple Grove, Minnesota.

Kirlin Securities, Inc. ("Respondent Kirlin") and Douglas Durcanin ("Respondent Durcanin") were represented by Paul J. Delmore, Esq., Hayes Simpson Greene LLP, San Diego, California.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 18, 2001. Submission Agreement of Claimant Russell Campbell was signed on June 4, 2001.

Respondents' Answer to Statement of Claim was filed by Respondents Kirlin Securities, Inc. and Douglas Durcanin on or about August 17, 2001. Submission Agreement of Respondent Kirlin Securities, Inc. was signed on August 17, 2002. Submission Agreement of Respondent Douglas Durcanin was signed on October 29, 2001.

**CASE SUMMARY**

Claimant alleged that Respondents were negligent and failed to make suitable recommendations to him. It was also alleged that Respondents violated their obligations to make suitable recommendations by: recommending that Claimant borrow money to invest in the stock market; recommending that Claimant purchase stock on margin; recommending that Claimant invest over ¾ of his net worth in one stock at any given time; and ignored his investment objectives and interests.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically denied: that the trading in Claimant's account was not suitable; that there was negligence in the handling of Claimant's account; that the margin account was improper; that there were any

recommendations based on rumor or inside information or that improper guarantees were made to the Claimant. Respondents further denied that there were any misrepresentations or failure to disclose material information that resulted in damages to Claimant. It was also stated that Respondent Durcanin discussed fully with the Claimant the risks of the concentration strategy, the risks of margin and the risks of short term trading.

### **RELIEF REQUESTED**

Claimant requested that the Arbitration Panel award him:

1. Compensatory damages in at least the amounts of:
  - a. \$106,299.29;
  - b. interest accrued and to be accrued on the home equity loan taken out by Claimant at the insistence of Respondents;
  - c. commissions paid by Claimant to Respondents;
  - d. margin interest accrued on Claimant's account;
  - e. lost opportunities; as well as
  - f. stress, pain and suffering.
2. Claimant further requested: an award of attorney fees accrued by him pursuant to 15 USC 1601 et seq. and Minn. Stat. 80A.01 et seq. as well as the Panel's inherent power to do equity; filing fees, session deposits and other costs and expenses associated with this matter; and for all other and further relief as the Panel deems fitting and appropriate.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & 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. 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Kirlin Securities, Inc. shall be and hereby is liable for and shall pay to Claimant

Russell Campbell the sum of \$20,000.00 (**Twenty Thousand Dollars and no Cents**) as compensatory damages.

2. Respondent Douglas Durcanin shall be and hereby is liable for and shall pay to Claimant Russell Campbell the sum of \$20,000.00 (**Twenty Thousand Dollars and no Cents**) as compensatory damages.
3. Respondent Kirlin Securities, Inc. shall be and hereby is liable for and shall pay to Claimant Russell Campbell the sum of \$22,505.00 (**Twenty Two Thousand Five Hundred Five Dollars and no Cents**) as attorneys fees.
4. Respondent Kirlin Securities, Inc. shall be and hereby is liable for and shall pay to Claimant Russell Campbell the sum of \$1,000.00 (**One Thousand Dollars and no Cents**) as punitive damages.
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 = \$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 firm(s) is Kirlin Securities, Inc.

Member surcharge = \$1,500.00  
Pre-hearing process fee = \$ 600.00  
Hearing process fee = \$2,500.00

### **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 with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference(s): January 10, 2002 1 session	
Five (5) Hearing sessions x \$1,125.00	= \$5,625.00
Hearing Date(s): April 16, 2002 2 sessions	
<u>April 17, 2002 3 sessions</u>	
Total Forum Fees	= \$6,750.00

The Arbitration Panel has assessed \$6,750.00 of the forum fees to Kirlin Securities, Inc.

### **Fee Summary**

Claimant, Russell Campbell, shall be and hereby is liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
Balance to be refunded by NASD Dispute Resolution, Inc.	= \$1,125.00

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

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	= \$ 6,750.00
Total Fees	= \$11,350.00
<u>Less payments</u>	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 9,250.00

All balances are due to NASD Dispute Resolution, Inc.

### **ARBITRATION PANEL**

Lavon C. Phillips, Esq. - Public Arbitrator, Presiding Chair  
James H. Colburn - Public Arbitrator  
Justin Dorsey - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Lavon C. Phillips

Lavon C. Phillips, Esq.  
Public Arbitrator, Presiding Chair

May 23, 2002

Signature Date

/s/ James H. Colburn

James H. Colburn  
Public Arbitrator

May 20, 2002

Signature Date

/s/ Justin Dorsey

Justin Dorsey  
Non-Public Arbitrator

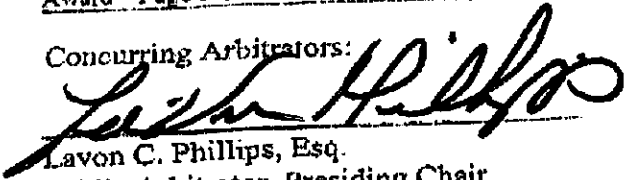
May 31, 2002

Signature Date

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NASD Dispute Resolution, Inc.  
Arbitration No. 01-03231  
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Concurring Arbitrators:

  
Lavon C. Phillips, Esq.  
Public Arbitrator, Presiding Chair

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James H. Colburn  
Public Arbitrator

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Justin Dorsey  
Non-Public Arbitrator

05-23-02  
Signature Date

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Signature Date

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Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 01-03231  
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Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

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*James H. Colburn*  
James H. Colburn  
Public Arbitrator

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Justin Dorsey  
Non-Public Arbitrator

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Signature Date

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*05/20/02*  
Signature Date

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Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 01-03231  
Award Page 5 of 5

Concurring Arbitrators

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Lavon C. Phillips, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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James H. Colburn  
Public Arbitrator

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

  
Justin Dorsey  
Non-Public Arbitrator

5-31-02  
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Signature Date