

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Russell L. Keltner, Claimant v. First Union Securities, Inc. and Corey W. Keeling, Respondents

Case Number: 01-03235

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

Paul W. Thomas, Esq.
Neda Ataie, Esq.
Law Offices of
Paul W. Thomas & Associates
Carlsbad, California

For Respondents:

Bruce Lewitas, Esq.
Lewitas & Associates, P.C.
Chicago, Illinois

CASE INFORMATION

Statement of Claim filed: June 13, 2001

Claimant's Uniform Submission Agreement signed: June 8, 2001

Joint Statement of Answer filed by Respondents First Union Securities, Inc. and Corey W. Keeling:
October 23, 2001

Respondent First Union Securities, Inc.'s Uniform Submission Agreement signed:
November 8, 2001

Respondent Corey W. Keeling's Uniform Submission Agreement signed: December 3, 2001

CASE SUMMARY

Claimant alleged suitability, excessive trading, breach of fiduciary duty, and failure to supervise.
The dispute involved the purchase and/or sale of various stocks.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$117,493.00, unspecified punitive damages, prejudgment interest, and arbitration costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and reimbursement of arbitration costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent First Union Securities, Inc. is liable to and shall pay Claimant Russell L. Keltner \$108,000.00 in compensatory damages.
- 2) Respondent First Union Securities, Inc. is liable to and shall pay Claimant Russell L. Keltner interest on the sum of \$108,000.00 at the rate of 6% percent per annum simple interest from January 1, 2001 to September 18, 2002.
- 3) Claimant's request for punitive damages is denied.
- 4) Respondent Corey W. Keeling is dismissed with prejudice.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution 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 either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm First Union Securities, Inc. is a party and the following fees are assessed:

| | |
|--------------------------|----------------------|
| Member Surcharge | = \$ 1,500.00 |
| Pre-Hearing Process Fee | = \$ 600.00 |
| Hearing Process Fee | = \$ 2,500.00 |
| Total Member Fees | = \$ 4,600.00 |

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrator/Panel. The following fees are assessed:

| | |
|--|-------------|
| 2 Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session | = \$ 900.00 |
| Pre-hearing conferences: August 28, 2002 | 1 session |
| September 12, 2002 | 1 session |

| | |
|---|---------------|
| 1 Pre-hearing conference session with the Panel @ \$ 1,125.00/session | = \$ 1,125.00 |
| Pre-hearing conference: April 4, 2002 | 1 session |

| | |
|--|---------------|
| 6 Hearing sessions @ \$ 1,125.00/session | = \$ 6,750.00 |
| Hearings: September 16, 2002 | 2 sessions |
| September 17, 2002 | 2 sessions |
| September 18, 2002 | 2 sessions |

| | |
|-------------------------|----------------------|
| Total Forum Fees | = \$ 8,775.00 |
|-------------------------|----------------------|

1. The Panel assessed \$ 4,387.50 of the forum fees to Claimant Russell L. Keltner.
2. The Panel assessed \$ 4,387.50 of the forum fees jointly and severally to Respondents First Union Securities, Inc. and Corey W. Keeling.

Fee Summary

1. Claimant Russell L. Keltner is charged with the following fees and costs:

| | |
|--|----------------------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 4,387.50 |
| <hr/> Total Fees | <hr/> = \$ 4,687.50 |
| Less payments | = \$(1,425.00) |
| <hr/> Balance Due NASD Dispute Resolution | <hr/> = \$ 3,262.50 |

2. Respondent First Union Securities, Inc. is charged with the following fees and costs:

| | |
|--|------------------------|
| Member Fees | = \$ 4,600.00 |
| Less payments | = \$(4,600.00) |
| <hr/> Balance Due NASD Dispute Resolution | <hr/> = \$ 0.00 |

3. Respondents First Union Securities, Inc. and Corey W. Keeling are charged jointly and severally with the following fees and costs:


| | |
|--|----------------------------|
| Forum Fees | = \$ 4,387.50 |
| <hr/> Balance Due NASD Dispute Resolution | <hr/> = \$ 4,387.50 |

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

ARBITRATION PANEL

| | | |
|--------------------|---|------------------------------------|
| Kenan Oldham, Esq. | - | Public Arbitrator, Presiding Chair |
| John H. St. Denis | - | Public Arbitrator |
| Richard B. Bullock | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures


Kenan Oldham, Esq.
Chair, Public Arbitrator

9/21/02
Signature Date

John H. St. Denis
Public Arbitrator

Signature Date

Richard B. Bullock
Non-Public Arbitrator

Signature Date

9/23/02
Date of Service

ARBITRATION PANEL

| | | |
|--------------------|---|------------------------------------|
| Kenan Oldham, Esq. | - | Public Arbitrator, Presiding Chair |
| John H. St. Denis | - | Public Arbitrator |
| Richard B. Bullock | - | Non-Public Arbitrator |

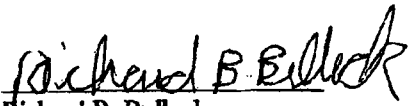
Concurring Arbitrators' Signatures

Kenan Oldham, Esq.
Chair, Public Arbitrator

Signature Date

John H. St. Denis
Public Arbitrator

Signature Date


Richard B. Bullock
Non-Public Arbitrator

9/20/02
Signature Date

9/23/02
Date of Service