

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rodney M. Kinsey, Trustee Of Rodney M. Kinsey, M/P/P and Donna P. Kinsey (Claimants) vs. Securities America, Inc. and Joseph E. Erwin (Respondents)

Case Number: 02-00636

Hearing Site: Columbus, Ohio

REPRESENTATION OF PARTIES

Claimants, Rodney M. Kinsey Trustee of Rodney M. Kinsey, M/P/P (R. Kinsey") and Donna P. Kinsey ("D. Kinsey"), hereinafter collectively referred to as "Claimants": previously represented by Patrick F. Smith, Esq., The Law Office of Patrick F. Smith, Columbus, OH. Gary D. Greenwald, Esq. and Christopher R. Pettit, Esq. of Shayne & Greenwald LPA, Columbus, OH represented the Claimants at the hearing.

Respondent, Joseph Erwin hereinafter referred to as "J. Erwin" did not enter an appearance in this matter.

Respondent, Securities America, Inc., ("Securities America") hereinafter referred to as "Respondent": James M. Bausch, Esq., Cline, Williams, Wright, Johnson, Lincoln, NE.

CASE INFORMATION

Statement of Claim filed on or about: February 7, 2002

Claimants' Amended Statement of Claim filed on April 3, 2003

Claimants signed the Uniform Submission Agreement: January 28, 2002

Statement of Answer filed by Respondent Securities America on or about: April 1, 2003

Answer to the Amended Statement of Claim filed on or about April 15, 2003

Respondent Securities America signed the Uniform Submission Agreement: April 1, 2003

CASE SUMMARY

Claimants asserted the following causes of action: fraud, misrepresentations, omissions, violation of Ohio Revised Code Section 1707.44(M)(1)(a,b,d), violation of Ohio Revised Code Section 1707.44 (G), violation of SEC Rule 10b-5, violation of SEC Rule 10b of the Exchange Act of 1934, and violations of Section 8 of the Exchange Act of 1934.

Unless specifically admitted in their Answer, Respondent Securities America denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$2,149,243.14
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Respondent Securities America, Inc. requested that Claimants' Statement of Claim be dismissed with prejudice and that Claimants be responsible for all costs associated with this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondent Joseph Erwin has been properly served with the Statement of Claim and received due notice of the hearing and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Joseph Erwin did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

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.

AWARD

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

1. Respondents Securities America and J. Erwin are jointly and severally liable for and shall pay to the Claimants compensatory damages in the amount of \$100,000.00 plus interest in the amount of \$50,000.00. Additional interest at the rate of 10% per annum shall accrue on the awarded compensatory damages and interest (above) from the date the award is served until paid.

2. J. Erwin is solely liable for punitive damages in the amount of \$500,000.00. Punitive damages were awarded pursuant to Ohio Revised Code Section 2315.21.
3. All other relief requests are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$500.00
--------------------------	------------

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 event giving rise to the dispute. Accordingly, Securities America is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 25 & 26, 2003 hearing dates, adjournment by Claimants = Waived

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: September 9, 2002 1 session	
April 7, 2003 1 session	
Seven (7) Hearing sessions @ \$1,200.00	= \$8,400.00
Hearing Dates: August 19, 2003 2 sessions	
August 20, 2003 3 sessions	
August 21, 2003 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$10,800.00

1. The Panel has assessed \$5,400.00 of the forum fees against the Claimants.

2. The Panel has assessed \$5,400.00 of the forum fees jointly and severally against Securities America and J. Erwin.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$5,400.00</u>
Total Fees	= \$5,900.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$4,475.00

As stated in the "award" section above, Respondents are liable and shall reimburse Claimants for the \$500.00 filing fee.

2. Respondent Securities America is solely liable for:

<u>Member Fees</u>	<u>= \$8,550.00</u>
Total Fees	= \$8,550.00
<u>Less payments</u>	<u>= \$7,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 850.00

3. Respondents Securities America and J. Erwin are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$5,400.00</u>
Total Fees	= \$5,400.00
<u>Less payments</u>	<u>= \$.00</u>
Balance Due NASD Dispute Resolution	= \$5,400.00

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

ARBITRATION PANEL

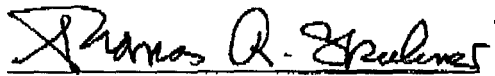
Jerome B. Haddox, Esq.	-	Public Arbitrator, Presiding Chair
Thomas R. Skulina, Esq.	-	Public Arbitrator
Donald E. Morris	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Jerome B. Haddox, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date




Thomas R. Skulina, Esq.
Public Arbitrator

Signature Date

Donald E. Morris
Non-Public Arbitrator

Signature Date



Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Jerome B. Haddox, Esq.	-	Public Arbitrator, Presiding Chair
Thomas R. Skulina, Esq.	-	Public Arbitrator
Donald E. Morris	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Jerome B. Haddox, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas R. Skulina, Esq.
Public Arbitrator

Signature Date



Donald E. Morris
Non-Public Arbitrator

Signature Date

OCT 16, 2003
Date of Service (For NASD Dispute Resolution use only)