

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Brenda M. Emmett and Brenda M. Emmett IRA, Claimants v. The Retirement Group, Frank A. Cuenca, Timothy C. Sullivan, FSC Securities Corporation, a subsidiary of Financial Service Corporation, Financial Service Corporation, Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation aka Donaldson, Lufkin & Jenrette Securities Corporation, Respondents

Case Number: 02-00789

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Members, Non-Members and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

Timothy D. Murphy
Law Offices of James Jay Seltzer
Emeryville, California

For Respondents The Retirement Group,
Frank A. Cuenca, Timothy C. Sullivan
and FSC Securities Corporation:

Amir Tadjedin
Markun Zusman & Compton LLP
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 8, 2002

Claimants' Uniform Submission Agreement signed: February 7, 2002

Joint Statement of Answer filed by Respondents Timothy C. Sullivan, FSC Securities Corporation ("FSC"), Frank A. Cuenca, The Retirement Group and Donaldson, Lufkin & Jenrette Securities Corporation: April 30, 2002

Respondent FSC's Uniform Submission Agreement signed: March 28, 2002

CASE SUMMARY

Claimants alleged the following claims with respect to investments in various unspecified corporate bonds and mutual funds: 1) unsuitability; 2) breach of fiduciary duty; 3) failure to supervise; 4) violation of the Securities and Exchange Act of 1934; 5) violation of the Securities Act of 1933; 6) violation of the NASD Rules of Fair Practice; and 7) violation of NYSE Rule 405.

Respondent Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation, aka Donaldson, Lufkin & Jenrette Securities Corporation (DLJ) was dismissed prior to settlement and took no part in it. The Respondents collectively denied all of the claims in the Statement of Claim.

RELIEF REQUESTED

Claimants requested damages in the amount of \$250,000.00 or according to proof, pre-judgment interest at the California statutory rate of 10%, attorney's fees, costs of suit, \$750,000.00 in punitive damages and such further action deemed just and appropriate.

Respondents requested Claimants take nothing by the Statement of Claim and that an award be entered in favor of Respondents; that Claimants be required to pay all costs incurred in these proceedings including all NASD charges, as well as all costs and attorneys' fees incurred by Respondents; and such other and further relief that the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Financial Service Corporation did not sign an agreement to arbitrate and did not voluntarily submit to arbitration. Accordingly, Financial Service Corporation was removed as a party in this matter.

On or about July 11, 2002, Claimants dismissed Respondent DLJ as a party in this matter.

Respondents Frank A. Cuenca and Timothy C. Sullivan did not file with NASD Dispute Resolution ("NASD-DR") properly executed submissions to arbitration. The Panel determined that said Respondents are required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, having answered Claimants' Claim, are bound by the determination of the Panel on all issues submitted.

On October 23, 2002, FSC signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 20, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On March 15, 2005, The Retirement Group signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

STIPULATED DEMAND AND RECOMMENDATION OF EXPUNGEMENT

Claimants represent and warrant that they have instructed their counsel to execute and file a Notice of Dismissal With Prejudice of the NASD Arbitration proceeding Case No. 02-00789, with respect to FSC Securities Corporation, Frank A. Cuenca and Timothy C. Sullivan.

AWARD

In January 2006, the parties entered into a settlement of this matter. The parties further agreed to present to the Panel a Stipulated Award. After considering the preceding Stipulation of the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel notes the parties' stipulation that all claims asserted by the Claimants against Respondents have been resolved.
2. Respondents are dismissed with prejudice pursuant to the settlement agreement entered into by FSC Securities Corporation and the Claimants.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Frank A. Cuenca's and Timothy C. Sullivan's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Frank A. Cuenca and Timothy C. Sullivan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Each party shall bear its own costs, including attorneys' fees.
5. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$375.00
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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, DLJ and FSC are parties and the following fees are assessed:

DLJ

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Total Member Fees	= \$3,000.00

FSC

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00
Total Member Fees	= \$7,000.00

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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:

(2) Pre-hearing conference sessions with the Panel		
@ \$1,200.00/session		= \$2,400.00
Pre-hearing conferences:	April 29, 2005	1 session
	June 8, 2006	1 session

Total Forum Fees	= \$2,400.00
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The Panel assessed \$1,800.00 in forum fees jointly and severally to Claimants Brenda M. Emmett and Brenda M. Emmett IRA.

The Panel assessed \$600.00 in forum fees jointly and severally to Respondents The Retirement Group, Frank A. Cuenca, Timothy C. Sullivan and FSC.

Fee Summary

1. Claimants Brenda M. Emmett and Brenda M. Emmett IRA are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 2,175.00
Less Payments	= \$(1,700.00)
Balance Due NASD-DR	= \$ 475.00

2. Respondent DLJ is charged with the following fees and costs:

Member Fees	= \$ 3,000.00
Less Payments	= \$(3,000.00)
Balance Due NASD-DR	= \$ 0.00

3. Respondent FSC is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less Payments	= \$(7,000.00)
Balance Due NASD-DR	= \$ 0.00

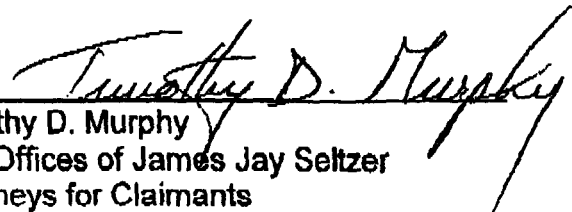
4. Respondents The Retirement Group, Frank A. Cuenca, Timothy C. Sullivan and FSC are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 600.00

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

Parties' Signatures

Dated: 7-6-06



Timothy D. Murphy
Law Offices of James Jay Seltzer
Attorneys for Claimants

Dated: _____

Amir Tadjedin
Markun Zusman & Compton LLP
Attorneys for Respondents

Parties' Signatures

Dated: _____

Timothy D. Murphy
Law Offices of James Jay Seltzer
Attorneys for Claimants

Dated: 7/6/06

Amir Tadjedin by ESJ
Amir Tadjedin
Markun Zusman & Compton LLP
Attorneys for Respondents

ARBITRATION PANEL

Lester Friedman, Esq.	-	Public Arbitrator, Presiding Chair
Peter Kassel	-	Public Arbitrator
Omar J. Brubaker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Lester Friedman, Esq.
Chair, Public Arbitrator

8/13/06

Signature Date

Peter Kassel
Public Arbitrator

Signature Date

Omar J. Brubaker
Non-Public Arbitrator

Signature Date

8/22/06

Date of Service

ARBITRATION PANEL

Lester Friedman, Esq.	-	Public Arbitrator, Presiding Chair
Peter Kassel	-	Public Arbitrator
Omar J. Erubaker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lester Friedman, Esq.
Chair, Public Arbitrator

Signature Date

Peter Kassel
Public Arbitrator

8/21/06

Signature Date

Omar J. Erubaker
Non-Public Arbitrator

Signature Date

8/22/06

Date of Service

ARBITRATION PANEL

Lester Friedman, Esq.	-	Public Arbitrator, Presiding Chair
Peter Kassel	-	Public Arbitrator
Omar J. Brubaker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lester Friedman, Esq.
Chair, Public Arbitrator

Signature Date

Peter Kassel
Public Arbitrator

Signature Date



Omar J. Brubaker
Non-Public Arbitrator

8/15/06

Signature Date

8/22/06

Date of Service