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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-04329

Dallen W. Peterson  
Glennis M. Peterson  
Peterson Family Limited Partnership  
Glendal, Inc.

Names of the Respondents

Hearing Site: Tampa, FL

Terrel Beckwith  
Principal Financial Securities, Inc.  
Everen Securities, Inc. n/k/a First Union Securities, Inc.

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Dallen W. Peterson, Glennis M. Peterson, Peterson Family Limited Partnership, and Glendal, Inc., hereinafter collectively referred to as "Claimants": Rodney K. Vincent, Esq., Vincent Law Offices, Lincoln, NE.

For Respondents Terrel Beckwith ("Beckwith"), Principal Financial Securities, Inc. ("PFS"), and Everen Securities, Inc. n/k/a First Union Securities, Inc. ("Everen"), hereinafter collectively referred to as "Respondents": Stephen Young, Esq., Elizabeth H. Lindh, Esq., and Jodi Cohen, Esq., Keesal, Young & Logan, Long Beach, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: July 24, 2002.

Motion to Amend Statement of Claim filed by Claimants on or about: October 20, 2003.

Amended Statement of Claim filed on or about: October 20, 2003.

Response to Motion to Dismiss and Response to Answer filed by Claimants on or about: February 4, 2003.

Claimants signed the Uniform Submission Agreement: July 17, 2002.

Answer and Motion to Dismiss filed by Respondents on or about: January 10, 2003.

Respondents' Opposition to Claimants' Motion to Amend Statement of Claim filed on or about: November 7, 2003.

Respondent Everen signed the Uniform Submission Agreement: December 17, 2002.

Respondents Beckwith and PFS did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of the anti-fraud provisions of the securities laws of the United States and Nebraska; common law fraud; breach of fiduciary duty;

common law negligence; violation of duties owed to the Claimants arising out of the breach of the NASD's Rules of Fair Practice, the rules of the NYSE, and applicable SEC rules; breach of contract; and, failure to supervise. The causes of action relate to the purchase of Sifco Industries, Inc., Steel Technologies, Inc., and Hawker Pacific Aerospace, Inc. stock in Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In their Motion to Dismiss, Respondents asserted that: (1) Claimants' claims are barred by the applicable statutes of limitations and/or the doctrine of laches; (2) there is no private cause of action for a violation of NASD and NYSE rules; (3) Claimants ratified the activity in their account; and, (4) certain of the investments about which Claimants complain were not purchased through the Respondents.

In response to the Motion to Dismiss, Claimants asserted that: (1) the Statement of Claim was filed within the statute of limitations; (2) Claimants stated causes of action for negligence and breach of contract; (3) Claimants did not ratify Respondent Beckwith's conduct; and, (4) Respondent Everen was responsible for supervising Respondent Beckwith's outside business activities.

#### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$7,570,523.00 plus pre-judgment interest, margin interest of \$1,061,957.00 plus pre-judgment interest, reimbursement of commissions of \$81,952.00 plus pre-judgment interest, punitive damages of \$26,143,296.00, costs, attorneys' fees, and such other relief the Panel deemed just and equitable.

Respondents requested dismissal of the Statement of Claim.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about August 11, 2003, the undersigned arbitrators (the "Panel") issued an order which denied Respondents' Motion to Dismiss.

On or about December 1, 2003, the Panel issued an order which granted Claimants' Motion to Amend Statement of Claim.

During the evidentiary hearing, Respondents requested that the Panel reconsider Respondents' Motion to Dismiss. Claimants opposed the Motion. On or about January 20, 2004, the Panel issued an order granting Respondents' Motion to Dismiss.

Respondents Beckwith and PFS did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents' Motion to Dismiss all claims is granted.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, 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	= \$ 600.00
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#### **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. Respondent Everen shares its NASD Central Registration Depository ("CRD") number with Respondent Principal. Accordingly, only Respondent Everen, which is a member firm and a party, is assessed the member fees in this matter.

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00
Total Member Fees	= \$10,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. 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:

One (1) Pre-hearing session with the Panel @ \$1,200.00 = \$ 1,200.00  
Pre-hearing conference: July 11, 2003 1 session

Twelve (12) Hearing sessions @ \$1,200.00 = \$14,400.00  
Hearing Dates: January 12, 2004 3 sessions  
January 13, 2004 3 sessions  
January 14, 2004 2 sessions  
January 15, 2004 2 sessions  
January 16, 2004 2 sessions

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Total Forum Fees = \$15,600.00

The Panel has assessed \$7,800.00 of the forum fees jointly and severally to Claimants.  
The Panel has assessed \$7,800.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 7,800.00
Total Fees	= \$ 8,400.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 6,600.00

Respondent Everen is solely liable for:

<u>Member Fees</u>	= \$10,000.00
Total Fees	= \$10,000.00
<u>Less payments</u>	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 400.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 7,800.00
Total Fees	= \$ 7,800.00

<u>Less payments</u>	= \$	<u>0.00</u>
Balance Due NASD Dispute Resolution	= \$	7,800.00

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

**ARBITRATION PANEL**

George K. Beardsley	-	Public Arbitrator, Presiding Chairperson
Thomas F. Icard, Jr.	-	Public Arbitrator
Clyde E. Renfroe, Jr.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
George K. Beardsley  
Public Arbitrator, Presiding Chairperson

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

/s/  
Thomas F. Icard, Jr.  
Public Arbitrator

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

/s/  
Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

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

February 9, 2004  
Date of Service (For NASD Dispute Resolution office use only)

<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,800.00

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Thomas F. Icard, Jr.	-	Public Arbitrator
Clyde E. Renfroe, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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George K. Beardsley  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Thomas F. Icard, Jr.  
Public Arbitrator

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

Clyde E. Renfroe, Jr.  
Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

2/06/08  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 02-04329  
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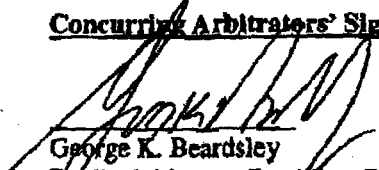
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Clyde E. Renfroe, Jr.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
George K. Beardsley  
Public Arbitrator, Presiding Chairperson

2/7/04  
Signature Date

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Thomas F. Icard, Jr.  
Public Arbitrator

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

\_\_\_\_\_  
Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

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Thomas F. Icard, Jr.	-	Public Arbitrator
Clyde E. Renfroe, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

George K. Beardsley  
Public Arbitrator, Presiding Chairperson

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

  
Thomas F. Icard, Jr.  
Public Arbitrator

2/9/04  
Signature Date

Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

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

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