

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Richard and Geraldine Kaptur, Claimants v. Adams, Hess, Moore & Co., Strand Atkinson
Williams & York, Inc., and Scott M. Davis, Respondents

Case Number: 02-04714

Hearing Site: Portland, Oregon

Nature of the Dispute: Customers v. Members and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

David J. Sweeney, Esq.,
Brownstein, Rask, Sweeney, Kerr,
Grim, DeSylvia & Hay LLP
Portland, Oregon

For Respondents:

Bruce Campbell, Esq.
Miller Nash LLP
Portland, Oregon

CASE INFORMATION

Statement of Claim filed: August 7, 2002

Claimants' Joint Uniform Submission Agreement signed: August 5, 2003

Joint Statement of Answer filed by Respondents Strand Atkinson Williams & York, Inc.,
successor in interest to Adams, Hess, Moore & Co., and Scott M. Davis: December 11, 2002

Respondent Strand Atkinson Williams & York, Inc.'s Uniform Submission Agreement:
None submitted

Respondent Scott M. Davis's Uniform Submission Agreement: None submitted

CASE SUMMARY

In their Statement of Claim, Claimants alleged unsuitability and breach of fiduciary duty involving the purchase of the following high yield bonds: Fort Howard Paper, Geneva Steel, Greyhound Lines, Inc., Kaiser Aluminum, Dan River, Inc., Stone Container Corporation, Royal Crown Cola, U.S. Banknote, Consolidated Cigar, Riverwood International, Crown Paper, American General, Grand Union Company, APS, Inc., E & S Holdings and Transamerica.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$155,000.00, disgorgement of commissions, interest, and costs, including attorney's fees.

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

OTHER ISSUES CONSIDERED AND DECIDED

In their Statement of Claim, Claimants asserted that in or about August 2000, Respondent Adams, Hess, Moore & Co. merged into and became part of Respondent Strand Atkinson Williams & York, Inc. In their response to the Statement of Claim, Respondents represented that Respondent Strand Atkinson Williams & York, Inc. is the successor in interest to Adams, Hess, Moore & Co. Respondent Adams, Hess, Moore & Co. did not file with NASD Dispute Resolution a properly executed submission agreement, and did not answer the claim.

Respondents Strand Atkinson Williams & York, Inc. and Scott M. Davis did not file with NASD Dispute Resolution, properly executed submission agreements, however, all said Respondents are required to submit to arbitration and, Respondents having answered the claim and having appeared and testified at the hearing, all said Respondents are bound by the determination of the Panel on all issues submitted.

On July 14, 2004, the Panel denied Respondents' Motion to Dismiss.

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, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable to and shall pay Claimant Geraldine Kaptur the sum of \$25,000.00 in compensatory damages due to unauthorized trading in Claimant Geraldine Kaptur's account.
- 2) Claimant Richard Kaptur's claims are denied in their entirety.
- 3) Respondents are jointly and severally liable to and shall pay Claimants the sum of \$353.20 in costs.
- 4) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 5) 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
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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, the member firm Strand Atkinson Williams & York, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

October 28, 2003, joint request for adjournment by all parties.
The Panel assessed \$562.50 of the adjournment fee joint
and severally to Claimants, and \$562.50 joint and severally
to Respondents = \$1,125.00

December 11-12, 2003, joint request for adjournment by all parties.
The Panel assessed \$750.00 of the adjournment fee joint and severally to
Claimants, and assessed \$750.00 of the adjournment fee joint and severally
to Respondents = \$1,500.00

April 13-14, 2004, adjournment requested by Respondents. The Panel assessed
\$1,125.00 of the adjournment fee jointly and severally to Respondents = \$1,125.00

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 Chair or
the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference with the Chair @\$450.00 = \$ 450.00
Pre-hearing conference: April 7, 2004

(4) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$4,500.00
Pre-hearing conferences: April 14, 2003 1 session
July 14, 2003 1 session
December 8, 2003 1 session
April 13, 2004 1 session

(4) Hearing sessions @ \$1,125.00/session = \$4,500.00
Hearings: July 22, 2004 2 sessions
July 23, 2004 2 sessions

Total Forum Fees = \$9,450.00

1. The Panel assessed \$4,725.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$4,725.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,312.50
<u>Forum Fees</u>	<u>= \$ 4,725.00</u>
Total Fees	= \$ 6,337.50
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,912.50

2. Respondent, Strand Atkinson Williams & York, Inc., is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents, Strand Atkinson Williams & York, Inc., successor in interest to Adams, Hess, Moore & Co., and Scott M. Davis, are charged jointly and severally with the following fees and costs:

Adjournment Fees	= \$ 2,437.50
<u>Forum Fees</u>	<u>= \$ 4,725.00</u>
Total Fees	= \$ 7,162.50
<u>Less Payments by Strand Atkinson Williams & York, Inc.</u>	<u>= \$(2,250.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,912.50

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

Nina Vallion, JD
Nancy E. Hochman, Esq.
R. Lee Smith

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Nina Vallion, JD
Chair, Public Arbitrator

Signature Date

Nancy E. Hochman, Esq.
Public Arbitrator

Signature Date

R. Lee Smith
Non-Public Arbitrator

Signature Date

8/31/04

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Public Arbitrator

Signature Date



R. Lee Smith
Non-Public Arbitrator

8-31-04
Signature Date

8/31/04
Date of Service

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