

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Catherine Burgess (Claimant) v. Kevin Jackson and Janney Montgomery Scott, LLC
(Respondents)

Case Number: 02-05950

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant, Catherine Burgess, hereinafter referred to as "Claimant": John S. Rubrich, Esq., Louis N. George, Esq., and Stuart E. Brown, Esq., Hassett & George, P.C., Hartford, CT.

Respondents, Kevin Jackson ("Jackson") and Janney Montgomery Scott ("JMS"), hereinafter collectively referred to as "Respondents": Moy N. Ogilvie, Esq. and David A. Reif, Esq., McCarter & English, Hartford, CT; previously of the firm Cummings & Lockwood, LLC, Hartford, CT.

CASE INFORMATION

Statement of Claim filed on or about: October 4, 2002.

Claimant signed the Uniform Submission Agreement: October 2, 2002.

Joint Statement of Answer filed by Respondents on or about: January 2, 2003.

Jackson signed the Uniform Submission Agreement: January 2, 2003.

JMS signed the Uniform Submission Agreement: November 26, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; suitability; omission of facts; misrepresentations; negligence; and failure to supervise. Claimant's claims involved shares in unspecified securities.

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

RELIEF REQUESTED

Claimant requested money damages in the amount of \$126,330.77; punitive damages in the amount of \$50,000.00; costs of this action; attorneys' fees; and such further relief as the Panel deems just and appropriate.

Respondents denied that Claimant is entitled to recover from them the damages and relief requested in the Wherefore Paragraph of her Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on September 12, 2003, Respondents moved that Claimant's witness, Marilyn Steinmetz, be ordered to produce notes of a 1994 meeting between the witness and Claimant. After due consideration, the Panel granted the motion and the witness complied.

At the hearing on September 26, 2003, Respondents moved that Claimant's margin account and damages claims at the hearing went beyond the scope of her Statement of Claim and should require an amendment to her claim, which amendment should be denied because of lack of notice. After due consideration, the Panel denied this motion, stating, on the record, that the Statement of Claim included the disputed claims and Respondents had adequate notice of these claims.

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

1. Respondents are jointly and severally liable for and shall pay to the Claimant compensatory damages in the amount of \$62,000.00 plus interest at the rate of 8% per annum beginning to accrue thirty (30) days after the date of this Award until the date this Award is paid in full.
2. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$ 300.00

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 events giving rise to the dispute. Accordingly, Janney Montgomery Scott, LLC is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 18, 19, and 20, 2003, adjournment by Respondents	= \$ 1,125.00
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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:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: June 2, 2003 1 session	

Eleven (11) Hearing sessions @ \$1,125.00	= \$12,375.00
Hearing Date(s):	
September 11, 2003	2 sessions
September 12, 2003	2 sessions
September 15, 2003	2 sessions
September 26, 2003	2 sessions
October 4, 2003	3 sessions

Total Forum Fees	= \$13,500.00
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1. The Panel has assessed \$6,750.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees against Jackson.
3. The Panel has assessed \$3,375.00 of the forum fees against JMS.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 6,750.00
Total Fees	= \$ 7,050.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00
2. JMS is solely liable for:

Member Fees	= \$ 5,200.00
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<u>Forum Fees</u>	= \$ 3,375.00
<u>Total Fees</u>	= \$ 8,575.00
<u>Less payments</u>	= \$ 6,325.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,250.00

3. Jackson is solely liable for:

<u>Forum Fees</u>	= \$ 3,375.00
<u>Total Fees</u>	= \$ 3,375.00
<u>Less payments</u>	= \$.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,375.00

4. Respondents are jointly and severally liable for:

<u>Adjournment Fee</u>	= \$1,125.00
<u>Total Fees</u>	= \$1,125.00
<u>Less payments</u>	= \$1,125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$.00

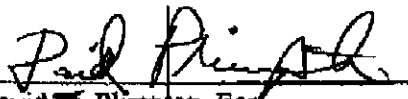
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

David M. Plimpton, Esq.	-	Public Arbitrator, Presiding Chair
William H. McCarter, Jr. Esq.	-	Public Arbitrator
Stephen M. Acerra, Jr. Esq.	-	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.



David M. Plimpton, Esq.
Public Arbitrator, Presiding Chairperson

October 30, 2003

Signature Date

William H. McCarter, Jr., Esq.
Public Arbitrator

Signature Date

Stephen M. Acerra, Jr., Esq.
Non-Public Arbitrator

Signature Date

October 31, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

David M. Plimpton, Esq.	-	Public Arbitrator, Presiding Chair
William H. McCarter, Jr. Esq.	-	Public Arbitrator
Stephen M. Acerra, Jr. Esq.	-	Non-Public Arbitrator

Concerning Arbitrators' Signatures

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David M. Plimpton, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

William H. McCarter, Jr., Esq.
Public Arbitrator

10-24-03

Signature Date

Stephen M. Acerra, Jr., Esq.
Non-Public Arbitrator

Signature Date

October 31, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

David M. Plimpton, Esq.	-	Public Arbitrator, Presiding Chair
William H. McCarter, Jr. Esq.	-	Public Arbitrator
Stephen M. Acerra, Jr. Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

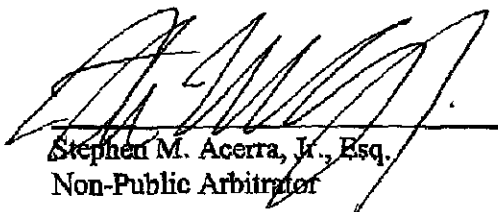
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David M. Plimpton, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

William H. McCarter, Jr., Esq.
Public Arbitrator

Signature Date



Stephen M. Acerra, Jr., Esq.
Non-Public Arbitrator

10/23/03

Signature Date

October 31, 2003

Date of Service (For NASD Dispute Resolution use only)