

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

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In the Matter of the Arbitration Between:

Linda S. Reynhout, Linda Reynhout IRA, and Ramon H. Caputo IRA (Claimants) v. S.C. Parker & Company, Inc., Kenneth R. Stewart, and Richard M. Hilliker (Respondents)

Case Number: 02-07451

Hearing Site: Buffalo, New York

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Nature of the Dispute: Customers vs. Member and Associated Persons.

**REPRESENTATION OF PARTIES**

Claimants Linda S. Reynhout ("L. Reynhout"), Linda Reynhout IRA ("L. Reynhout IRA"), and Raymon H. Caputo IRA ("R. Caputo IRA") hereinafter collectively referred to as "Claimants": Jeffrey A. Sellers, Esq., Silverberg, Yood, Sellers, McGorry & Silverberg, Buffalo, NY.

Respondents S. C. Parker & Company, Inc. ("S.C. Parker"), Kenneth R. Stewart ("Stewart"), and Richard M. Hilliker ("Hilliker") hereinafter collectively referred to as "Respondents": Robert J. Lane, Jr., Esq., Hodgson Russ, LLP, Buffalo, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: December 5, 2002.

L. Reynhout signed the Uniform Submission Agreement: November 27, 2002.

R. Caputo signed the Uniform Submission Agreement: November 27, 2002.

Joint Statement of Answer filed by Respondents on or about: March 14, 2003.

S. C. Parker signed the Uniform Submission Agreement: March 18, 2003.

Stewart signed the Uniform Submission Agreement: March 18, 2003.

Hilliker signed the Uniform Submission Agreement: March 18, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: suitability; failure to supervise; breach of contract; breach of fiduciary duty; and violations of NASD rules. Claimants' claim involved shares of Commerce One, Intel, Motorola, Oracle, Rambus, Cisco, Sycamore Networks, mutual funds, and other 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**

Claimants L. Reynhout and L. Reynhout IRA requested:

1. Damages in the amount of \$114,139.00 regarding brokerage account number 700171;
2. Damages in the amount of \$33,445.00 regarding IRA account number 700189;
3. Damages in the amount of \$60,000.00 in relation to the declining value in the Dean Witter mutual funds;
4. Costs, disbursements, and other, further, and different relief determined to be just and proper.

Claimant R. Caputo requested:

1. Damages in the amount of \$48,670.00;
2. Costs, disbursements, and other further, and different relief determined to be just and proper.

Respondents requested that the claims asserted in the Statement of Claim be dismissed and that Respondents be awarded their attorneys' fees, expenses, disbursements, and the costs of this arbitration.

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

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 S.C. Parker and Stewart are liable for and shall pay to Claimant R. Caputo, IRA compensatory damages in the amount of \$30,000.00.
2. All claims by Claimants L. Reynhout and L. Reynhout, IRA are denied in their entirety.
3. Any and all relief not specifically addressed herein 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
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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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, S. C. Parker & Company, Inc. is a party.

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

#### **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 @ \$1,125.00	= \$ 2,250.00
Pre-hearing conferences:	
July 8, 2003	1 session
July 29, 2003	1 session

Eight (8) Hearing sessions @ \$1,125.00	= \$ 9,000.00
Hearing Dates:	
December 2, 2003	2 sessions
December 3, 2003	2 sessions
December 4, 2003	2 sessions
March 19, 2004	2 sessions

Total Forum Fees	= \$11,250.00
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1. The Panel has assessed \$11,250.00 of the forum fees jointly and severally against Respondents S.C. Parker and Stewart.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$1,425.00
Refund Due Claimants	= \$1,125.00

2. S. C. Parker & Company, Inc. is solely liable for:

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

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$11,250.00</u>
Total Fees	= \$11,250.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$11,250.00

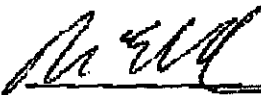
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
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**ARBITRATION PANEL**

Thomas E. Webb, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Eugene M. Setel, J.D.	-	Public Arbitrator
Maryann Donahue-Yadon	-	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.



Thomas E. Webb, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

4/16/04  
Signature Date

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Eugene M. Setel, J.D.  
Public Arbitrator

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

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Maryann Donahue-Yadon  
Non-Public Arbitrator

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

April 16, 2004

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

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