

**Award
NASD**

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 03-01067

Lois Boutaugh f/k/a Lois
Boutaugh-Goss

Name of the Respondent

Hearing Site: Atlanta, Georgia

Bryan T. Forman

REPRESENTATION OF PARTIES

For Lois Boutaugh f/k/a Lois Boutaugh-Goss, hereinafter referred to as "Claimant": Philip R. Taylor, Esq. and Joseph R. Odachowski, Esq., Taylor, Odachowski & Sperry, LLC, St. Simons Island, Georgia.

For Bryan T. Forman, hereinafter referred to as "Respondent": Frank G. Jones, Esq., Harry L. Scarborough, Esq. and Valerie G. Jewett, Esq., Fulbright & Jaworski, L.L.P., Houston, Texas.

CASE INFORMATION

This case was severed from NASD Arbitration Number 02-00700. In that case, the following pleadings were filed:

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

Amended Statement of Claim filed on or about: July 1, 2002.

Claimant signed the Uniform Submission Agreement: January 25, 2002.

Claimant signed the revised Uniform Submission Agreement: July 5, 2002.

Statement of Answer filed by Respondent on or about: May 24, 2002.

Motion to Dismiss with Request for Expungement filed by Respondent on or about: December 20, 2002.

Respondent signed, but did not date, the Uniform Submission Agreement.

In this case, the following pleading was filed:

Counterclaim for Expungement filed by Respondent on or about: March 24, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of duty of fair dealing; breach of duty of loyalty; breach of duty of full disclosure; breach of duty of good faith; breach of duty of due diligence; breach of fiduciary duty; fraud; violation of Texas Deceptive Trade Practice - Consumer Protection Act; material misrepresentations; unauthorized trading;

churning; negligence; and, gross negligence. The causes of action relate to the purchase and sale of unspecified securities in Claimant's account.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondent filed a Motion to Dismiss the Statement of Claim on the following bases: all claims are based on trades that occurred prior to the date of Respondent's affiliation with First Avantus Securities, Inc.; Claimant failed to specify any relevant facts to support the claims against Respondent; and, Claimant's claims against Respondent are without legal merit. Furthermore, Respondent filed a counterclaim for expungement.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$8,000,000.00, punitive damages in the amount of \$16,000,000.00, plus attorneys' fees, filing fees and any other relief deemed just and proper.

Respondent requested judgment dismissing Claimant's claims, plus costs, attorneys' fees and expungement of this matter from Respondent's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 24, 2003, the Panel issued an order which affirmed the parties' agreement to the dismissal, with prejudice, of Respondent. In addition, the Panel asserted that Respondent is entitled to have all references and information on file with the NASD and in the NASD CRD system, including all Form U-4 filings that relate to this matter, expunged. Further, in support of the expungement, the Panel found, in compliance with NASD Notice to Members 01-65, that Respondent was named in clear error.

This case was severed from NASD Arbitration Number 02-0700 *Lois Boutaugh f/k/a Lois Boutaugh-Goss vs. First Avantus Securities, Inc. et al.* where Respondent requested, and the Panel granted, immediate expungement of Respondent's NASD CRD record. On or about March 5, 2003, the Panel issued the following order:

That NASD sever Respondent's request for expungement;

That NASD establish a new case with case number 03-01067 and with a caption of *Lois Boutaugh f/k/a Lois Boutaugh-Goss v. Bryan Forman*. Said new case will not include any other Respondents from the original case;

That the Panel assigned to the underlying case be assigned to the new case;

That Respondent pay a \$125.00 counterclaim filing fee within thirty (30) days in order

for NASD to process the expungement;

That the provisions of Rules 10314, 10321 and 10308 of the NASD Code of Arbitration Procedure (the "Code") do not apply to the new case; and,

That Claimant does not have to file an answer to the counterclaim in this new case.

On or about March 24, 2003, Respondent notified NASD that Respondent's request for expungement filed in NASD Arbitration Number 02-00700 constitutes a counterclaim to be decided in this case.

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

AWARD

After considering the pleadings and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above captioned arbitration, as well as the expungement of all references to NASD Arbitration Number 02-00700 *Lois Boutaugh f/k/a Lois Boutaugh-Goss v. First Avantis Securities, Inc. et al.*, from Respondent Bryan Forman's registration records maintained by the NASD CRD, including all Form U-4 filings that relate to this matter, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Counterclaim filing fee	= \$125.00
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Member Fees

No member fees were incurred in this matter.

Adjournment Fees

No requests for adjournment were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

No forum fees were incurred in this matter.

Administrative Costs

No administrative costs were incurred in this matter.

FEE SUMMARY

Respondent is solely liable for:

Counterclaim Filing Fee	= \$125.00
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Total Fees	= \$125.00
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Less payments	= \$125.00
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Balance Due NASD	= \$0.00
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ARBITRATION PANEL

William E. Beringer	-	Public Arbitrator, Presiding Chair
Donald M. Helton	-	Public Arbitrator
Perry L. Taylor, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
William E. Beringer
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Donald M. Helton
Public Arbitrator

Signature Date

_____/S/_____
Perry L. Taylor, Jr., Esq.
Non-Public Arbitrator

Signature Date

April 8, 2003
Date of Service (For NASD office use only)

No forum fees were incurred in this matter.

Administrative Costs

No administrative costs were incurred in this matter.

FEE SUMMARY

Respondent is solely liable for:

Counterclaim Filing Fee = \$125.00

Total Fees = \$125.00

Less payments = \$125.00

Balance Due NASD = \$0.00


ARBITRATION PANEL

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Donald M. Helton	-	Public Arbitrator
Perry L. Taylor, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William E. Beringer
Public Arbitrator, Presiding Chair

Signature Date



Donald M. Helton
Public Arbitrator

4/1/03

Signature Date

Perry L. Taylor, Jr., Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

No forum fees were incurred in this matter.

Administrative Costs

No administrative costs were incurred in this matter.

FEE SUMMARY

Respondent is solely liable for:

Counterclaim Filing Fee = \$125.00

Total Fees = \$125.00

Less payments = \$125.00

Balance Due NASD = \$0.00

ARBITRATION PANEL

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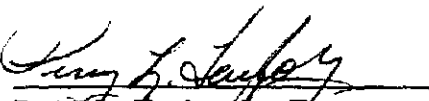
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Signature Date

Donald M. Helton
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Signature Date



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Signature Date

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