

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
William R. Stapp

Case Number: 03-01113

Name of the Respondents
SunAmerica Securities, Inc.,
Kenneth A. Logan, and Logan & Kilp, Inc.

Hearing Site: Chicago, Illinois

TYPE OF CONTROVERSY

Customer v. Member Firm and Associated Person v. Non-Member Firm

REPRESENTATION OF PARTIES

Claimant William R. Stapp ("Stapp") was represented by Diane A. Nygaard, Esq. of the Nygaard Law Firm located in Leawood, Kansas.

Respondents SunAmerica Securities, Inc. ("SunAmerica") and Kenneth A. Logan ("Logan") were represented by David A. Baugh, Esq. of the firm Mora Baugh Waitzman & Unger, LLC located in Chicago, Illinois.

Logan & Kilp, Inc. did not appear.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2003.

Claimant Stapp signed the Uniform Submission Agreement: February 13, 2003.

Joint Statement of Answer filed by Respondents on or about: April 22, 2003.

Respondent SunAmerica signed the Uniform Submission Agreement: April 15, 2003.

Respondent Logan signed the Uniform Submission Agreement: April 7, 2003.

CASE SUMMARY

Claimants Stapp asserted the following causes of action: Fraud; Negligence; Violation of NASD Rules 2110, 2310, and 3010; Breach of Contract; Breach of Fiduciary Duty; and Violation of the Kansas Securities Act.

The causes of action relate to investments in mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses:

- Claimant fails to state of claim for which relief may be granted against
- Claimant failed to mitigate his damages.
- Claimant's damages, if any, were the result of Claimant's own conduct or the conduct of others outside the control of Respondents. Respondents reserved the right to compare fault with Claimant and others over whom Respondents had no control.
- Claimant's investment losses are the result of unfavorable and unpredictable general market conditions beyond the control or responsibility of Respondents, and not the result of negligence or other misconduct on the part of Respondents.
- Claimants approved and ratified all the acts and transactions complained of in their Statement of Claim.
- All risks (particularly the risk of market volatility and capital losses) were fully explained to Claimant and he knowingly, willfully, and voluntarily assumed those risks.
- Respondents reserved their right to plead additional affirmative defenses if additional defenses become known through discovery.

RELIEF REQUESTED

Claimant Stapp requested:

Compensatory Damages	unspecified in the statement of claim
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	any relief the panel deems just and equitable

Respondents requested:

Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	denial and dismissal of claims

OTHER ISSUES CONSIDERED AND DECIDED

Logan & Kilp, Inc. is not an NASD member firm and did not voluntarily submit to NASD arbitration. Claimant William R. Stapp's claims against Logan & Kilp, Inc. were not adjudicated.

At the start of the hearing, Arbitrator Thomas Phillips granted Claimant's request to recuse himself. All parties consented to proceeding with only two arbitrators.

At the close of Claimant's case Respondents moved for a directed verdict. The panel denied the motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. SunAmerica Securities, Inc. and Kenneth A. Logan are liable for and shall pay to William R. Stapp the sum of \$114,336.00 as compensatory damages, plus 7.7% simple interest per annum. Interest shall began accrue March 23, 2000 and shall cease to accrue June 25, 2004.
2. Except as specified herein, parties shall bear their own costs, including attorney's fees.
3. 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	= \$ 250.00
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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 person at the time of the events giving rise to the dispute. Accordingly, SunAmerica Securities, Inc., Kenneth A. Logan, and Logan & Kilp, Inc. is assessed the following fees:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,200.00</u>
Total	= \$ 4,450.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

Respondent SunAmerica requested postponement of the April 19 -21, 2004 hearing dates
= \$ 1,000.00

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:

One (1) Pre-hearing sessions with Panel at \$1,000.00 = \$1,000.00
Pre-hearing conference: September 30, 2003 1 session

Eight (8) Hearing sessions at \$1,000.00 = \$8,000.00

Hearing Dates: June 21, 2004 2 sessions
June 22, 2004 2 sessions
June 23, 2004 3 sessions
June 24, 2004 1 session

Total Forum Fees = \$9,000.00

1. The Panel has assessed \$4,500.00 of the forum fees to SunAmerica Securities, Inc.
2. The Panel has assessed \$4,500.00 of the forum fees to Kenneth A. Logan.

FEE SUMMARY

1. Claimant William R. Stapp is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 1,250.00
<u>Refund Due from NASD Dispute Resolution</u>	= \$ 1,000.00

2. Respondent SunAmerica Securities, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 4,450.00
<u>Adjournment Fee</u>	= \$ 1,000.00
<u>Forum Fees</u>	= \$ 4,500.00
<u>Total Fees</u>	= \$ 9,950.00
<u>Less payments</u>	= \$ 4,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,500.00

3. Respondent Kenneth A. Logan is solely liable for:

<u>Forum Fees</u>	= \$ 4,500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 4,500.00

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

ARBITRATION PANEL

Douglas Y. Curran, Esq.

-

Public Arbitrator, Presiding Chairperson

William F. Hoeschele

-

Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Douglas Y. Curran

7/14/04

Douglas Y. Curran, Esq.

Signature Date

Public Arbitrator, Presiding Chairperson

/s/ William F. Hoeschele

7/14/04

William F. Hoeschele

Signature Date

Public Arbitrator

7/15/04

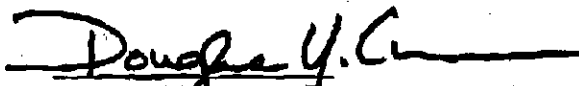
Date of Service (For NASD Dispute Resolution office use only)

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Douglas Y. Curran, Esq.
William F. Hoeschele

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator

Concurring Arbitrators' Signatures



Douglas Y. Curran, Esq.
Public Arbitrator, Presiding Chairperson

7/14/04

Signature Date

William F. Hoeschele
Public Arbitrator

Signature Date

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William F. Hoeschele -

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Public Arbitrator, Presiding Chairperson

Signature Date

William F. Hoeschele
William F. Hoeschele
Public Arbitrator

7/14/2004
Signature Date

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