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

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In the Matter of the Arbitration Between:

Names of the Claimants

George Oram  
Patricia Oram

Case Number: 03-01369

Names of the Respondents

K.W. Brown Investments, Inc.  
Kenneth William Brown  
Wendy Elizabeth Brown  
K.W. Brown Investments  
21<sup>st</sup> Century Advisors, Inc.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer v. Member, Associated Person and Non-member.

**REPRESENTATION OF PARTIES**

For George Oram and Patricia Oram, hereinafter collectively referred to as "Claimants": Randall W. Henley, Esq., Law Office of Randall W. Henley, West Palm Beach, Florida.

For K.W. Brown Investments, Inc. ("KWB"), Kenneth William Brown ("KB"), Wendy Elizabeth Brown ("WB"), K.W. Brown Investments ("KWI") and 21<sup>st</sup> Century Advisors, Inc. ("21<sup>st</sup> Century"), hereinafter collectively referred to as "Respondents": Russell L. Forkey, Esq., Russell L. Forkey, P.A., Fort Lauderdale, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: February 24, 2003.

Claimants signed the Uniform Submission Agreements: February 21, 2003.

Motion to Dismiss filed by Respondent KWB on or about: May 16, 2003.

Motion to Dismiss and Statement of Answer filed by Respondents KB and WB on or about: May 16, 2003.

Amended Statement of Claim filed by Claimants on or about: June 2, 2003.

Memorandum of Law Opposing Respondents KWB's, KB's and WB's Motions to Dismiss filed by Claimants on or about: October 6, 2003.

Response to Claimants' Memorandum of Law filed by Respondents KWB, KB and WB on or about: October 10, 2003.

Respondents did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimants asserted the causes of action of negligence and breach of fiduciary duty against Respondents. The causes of action relate to the purchase in Claimants' accounts of unspecified common stocks and options.

Unless specifically admitted in their Answer, Respondents KB and WB denied the allegations of wrongdoing contained in the Statement of Claim and asserted various defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$93,833.00, interest and costs.

Respondent KWB requested that this matter be dismissed.

Respondents KB and WB requested that the Statement of Claim be dismissed in its entirety, and that the Panel enter an award of attorney's fees in their favor, together with such other and further relief as the Panel deemed just and proper.

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

On or about October 31, 2003, the Panel issued an Order that denied Respondents KWB's, KB's and WB's motions to dismiss.

Respondents KB and WB, associated persons, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

Respondent KWI, an NASD member firm, did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code, and is bound by the determination of the Panel on all issues submitted.

Respondent KWB, which is not an NASD member firm, did not file with NASD Dispute Resolution a Statement of Answer or properly executed submission to arbitration. On or about June 6, 2004, Claimants filed with NASD Dispute Resolution a notice of withdrawal of all claims against Respondent KWB.

Respondent 21<sup>st</sup> Century, which is not an NASD member firm, did not file with NASD Dispute Resolution a Statement of Answer or properly executed submission to arbitration but, having voluntarily participated in the settlement of the claim and requested the entry of a Stipulated Award, is bound by the determination of the Panel on all issues submitted.

During the evidentiary hearing on April 8, 2004, the parties notified the Panel that they had settled this matter.

On or about August 17, 2004, the parties filed with NASD Dispute Resolution a request for a Stipulated Award and a Stipulation of Settlement.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **AWARD**

After considering the pleadings, the Stipulation of Settlement submitted by the parties, and the parties' request for the entry of a Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims against Respondents are dismissed, with prejudice.

After review of the discovery provided by Respondents in this matter, and after participating in a full day of evidentiary hearings, Claimants determined that their filing of claims against Respondents KB, KWI and 21<sup>st</sup> Century were unfounded and that the Panel lacked jurisdiction over the Respondents. Additionally, Claimants withdrew all allegations of wrongdoing against Respondents KWI, KB, WB and 21<sup>st</sup> Century, in addition to dismissing them with prejudice. Accordingly, the Panel recommends that all references to the above-captioned arbitration be expunged from Respondents KWI's, KB's and WB's U-4 as well as the registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents KWI, KB and WB must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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	= \$ 225.00
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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, Respondent KWI is a member firm and a party:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

#### **Adjournment Fees**

No adjournments were requested in this matter.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred during this proceeding.

**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 the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: September 30, 2003 1 session	
One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: March 18, 2004 1 session	
Four (4) Hearing sessions @ \$750.00/session	= \$3,000.00
Hearing Dates: April 7, 2004 3 sessions	
April 8, 2004 1 session	
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Total Forum Fees	= \$4,200.00

Pursuant to the agreement of the parties, the Panel has assessed forum fees as follows:

\$600.00 to Claimants, jointly and severally  
\$3,600.00 to Respondent 21<sup>st</sup> Century

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 600.00
<u>Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent KWI is solely liable for:

<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$3,550.00

<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent 21<sup>st</sup> Century is solely liable for:

<u>Forum Fees</u>	= \$3,600.00
Total Fees	= \$3,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,600.00

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

**ARBITRATION PANEL**

S. Harvey Ziegler, Esq.	-	Public Arbitrator, Presiding Chairperson
James J. Kenny, Esq.	-	Public Arbitrator
Stanley B. Wolff	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
S. Harvey Ziegler, Esq.  
Public Arbitrator, Presiding Chairperson

September 21, 2004  
Signature Date

/s/  
James J. Kenny, Esq.  
Public Arbitrator

September 22, 2004  
Signature Date

/s/  
Stanley B. Wolff  
Non-Public Arbitrator

October 15, 2004  
Signature Date

October 21, 2004  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 03-01369  
Stipulated Award Page 5

<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent 21<sup>st</sup> Century is solely liable for:


<u>Forum Fees</u>	= \$3,600.00
Total Fees	= \$3,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,600.00

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James J. Kenny, Esq.	-	Public Arbitrator
Stanley B. Wolff	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
S. Harvey Ziegler, Esq.  
Public Arbitrator, Presiding Chairperson

9/21/04  
Signature Date

\_\_\_\_\_  
James J. Kenny, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Stanley B. Wolff  
Non-Public Arbitrator

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Signature Date

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NASD Dispute Resolution  
Arbitration No. 03-01369  
Stipulated Award Page 5

<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent 21<sup>st</sup> Century is solely liable for:

<u>Forum Fees</u>	<u>= \$3,600.00</u>
<u>Total Fees</u>	<u>= \$3,600.00</u>
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$3,600.00

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S. Harvey Ziegler, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
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James J. Kenny, Esq.  
Public Arbitrator

Sept. 22, 2004  
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Signature Date

\_\_\_\_\_  
Stanley B. Wolff  
Non-Public Arbitrator

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

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

**RECEIVED**

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**FL ARBITRATION**

<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent 21<sup>st</sup> Century is solely liable for:

<u>Forum Fees</u>	= \$3,600.00
<u>Total Fees</u>	= \$3,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,600.00

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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James J. Kenny, Esq.	-	Public Arbitrator
Stanley B. Wolff	-	Non-Public Arbitrator

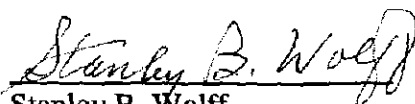
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S. Harvey Ziegler, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
James J. Kenny, Esq.  
Public Arbitrator

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Signature Date

  
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Stanley B. Wolff  
Non-Public Arbitrator

10/15/04  
\_\_\_\_\_  
Signature Date

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