

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Clark D. Richey

Case Number: 03-01427

Names of the Respondents  
Sterling Financial Investment Group, Inc.  
Gregory Roth

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Clark D. Richey ("Richey"), hereinafter referred to as "Claimant": Richard H. Levenstein, Esq., Kramer, Sewell, Sopko & Levenstein, P.A., Stuart, Florida.

For Sterling Financial Investment Group, Inc. ("SFIG") and Gregory Roth ("Roth"), hereinafter referred to as "Respondents": William Zeena, Jr., Esq. and Alan M. Herman, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker LLP, Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: February 25, 2003.

Claimant signed the Uniform Submission Agreement: February 25, 2003.

Statement of Answer filed by Respondents on or about: May 13, 2003.

Respondent SFIG signed the Uniform Submission Agreement: April 25, 2003.

Respondent Roth signed the Uniform Submission Agreement: May 13, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) violation of Florida Statutes Sections 517.301 and 517.211; 2) fraud; 3) negligence; 4) breach of fiduciary duties; 5) negligent supervision; and 6) respondeat superior. The causes of action relate to the trading of unspecified securities in Claimant's account, including those made on margin.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$120,000.00, plus punitive damages, attorney's fees and such other relief as is deemed just and proper.

Respondents requested that all claims against them be dismissed and that they be awarded

their costs, attorney's fees and such other and further relief as is deemed just and proper.

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

On or about October 24, 2003, Claimant advised NASD Dispute Resolution that this matter had settled.

On or about December 16, 2003, the parties filed with NASD Dispute Resolution a proposed Stipulated Award wherein the parties requested that all references to this matter be expunged from Respondent Roth's registration records maintained by the NASD Central Registration Depository ("CRD")

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

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

The Panel finds that Claimant dismissed Respondent Roth from this arbitration with prejudice and finds that Respondent Roth did not contribute to any settlement, and for good cause, recommends the expungement of all references to the above captioned arbitration from Respondent Roth's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Roth must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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, Respondent SFIG is a member firm and a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee

= \$2,750.00

**Adjournment Fees**

No adjournments were granted during these proceedings for which fees were assessed.

**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 these proceedings.

**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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: September 3, 2003	1 session
Total Forum Fees	= \$1,125.00

The Panel has assessed \$562.50 of the forum fees to Claimant.

The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents.

**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.

Miscellaneous administrative costs jointly and severally to Respondents = \$ 15.00

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent SFIG is solely liable for:

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

Respondents are jointly and severally liable for:

Forum Fees	= \$ 562.50
<u>Administrative Costs</u>	= \$ 15.00
<u>Total Fees</u>	= \$ 577.50
<u>Less payments</u>	= \$ 577.50
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

<i>George R. Canty, Jr., Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Elizabeth Clark</i>	-	<i>Public Arbitrator</i>
<i>Kathy N. Novick</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

/s/  
George R. Canty, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

August 26, 2004  
Signature Date

/s/  
Elizabeth Clark  
Public Arbitrator

August 23, 2004  
Signature Date

/s/  
Kathy N. Novick  
Non-Public Arbitrator

August 24, 2004  
Signature Date

October 6, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Respondent SFIG is solely liable for:

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

Respondents are jointly and severally liable for:

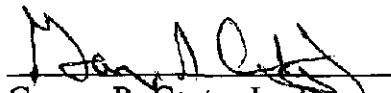
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<i>Elizabeth Clark</i>	-	<i>Public Arbitrator</i>
<i>Kathy N. Novick</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

  
George R. Canty, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

8/26/04  
Signature Date

\_\_\_\_\_  
Elizabeth Clark  
Public Arbitrator

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

\_\_\_\_\_  
Kathy N. Novick  
Non-Public Arbitrator

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

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

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<i>Elizabeth Clark</i>	-	<i>Public Arbitrator</i>
<i>Kathy N. Novick</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

George R. Canty, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Elizabeth Clark  
Public Arbitrator

Signature Date

8/23/04

Kathy N. Novick  
Non-Public Arbitrator

Signature Date

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

Respondent SFIG is solely liable for:

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

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ARBITRATION PANEL case # 03-01427

George R. Canry, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Elizabeth Clark	-	Public Arbitrator
Kathy N. Novick	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

George R. Canry, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Elizabeth Clark  
Public Arbitrator

Signature Date

  
Kathy N. Novick  
Non-Public Arbitrator

8-24-04  
Signature Date

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