

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

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In the Matter of the Arbitration Between:

Kenneth I. Wissner (Claimant) v. Fin Atlantic Securities, S.G. Martin Securities, LLC,  
and Lance Mitchell Kluger (Respondents)

Case Number: 03-02624

Hearing Site: New York, New York

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Nature of the Dispute: Customer v. Member, Terminated Member, and Associated  
Person.

**REPRESENTATION OF PARTIES**

Claimant Kenneth I. Wissner ("Wissner") hereinafter referred to as "Claimant": Leslie  
Trager, Esq., Morley and Trager, New York, NY.

Respondent S.G. Martin Securities, LLC ("S.G. Martin"): Joseph L. Pittera, Esq., Law  
Offices of Joseph Pittera, Torrance, CA. Previously represented by: Ira Bader, Esq.,  
S.G. Martin Securities, LLC, Rocky Point, NY.

Respondent Lance Mitchell Kluger ("Kluger"): Douglas Scarlett, Esq., Scarlett &  
Associates, Boca Raton, FL.

Respondent Fin-Atlantic Securities ("Fin-Atlantic") did not make an appearance in this  
matter.

S.G. Martin, Kluger, and Fin-Atlantic are hereinafter collectively referred to as  
"Respondents".

**CASE INFORMATION**

Statement of Claim filed on or about: April 3, 2003.

Claimant signed the Uniform Submission Agreement: April 2, 2003.

Respondent S.G. Martin signed the Uniform Submission Agreement: November 17,  
2003.

Respondent S.G. Martin did not file a Statement of Answer.

Respondent Kluger did not file a Statement of Answer or sign the Uniform Submission  
Agreement.

Respondent Fin-Atlantic did not file a Statement of Answer or sign the Uniform

Submission Agreement.

### **CASE SUMMARY**

Claimant asserted the following causes of action: unsuitability; failure to supervise; churning; and excessive commissions charged. Claimant's claim involved common stock including, but not limited to, Navarre Corp., P-Com, Inc., Wood Capital, and Network Plus Corp.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$133,455.64; punitive damages in the amount of \$100,000.00; interest; costs; and attorneys' fees.

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

Respondents Kluger did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Because NASD Dispute Resolution did not perfect service upon Respondent Fin-Atlantic, the Panel did not make a ruling as to this entity.

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, and 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. All claims of Claimant against Respondents Kluger and S.G. Martin are dismissed with prejudice.
2. 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 = \$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, S.G. Martin Securities, LLC, 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: March 8, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00  
Pre-hearing conference: May 8, 2004 1 session

Six (6) Hearing sessions @ \$1,125.00 = \$6,750.00  
Hearing Dates: August 2, 2004 2 sessions  
August 3, 2004 2 sessions  
August 4, 2004 2 sessions

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Total Forum Fees = \$8,325.00

1. The Panel has assessed \$8,325.00 of the forum fees jointly and severally against Respondents Kluger and S.G. Martin.

**Fee Summary**

1. Claimant is solely liable for:

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

2. Respondent S.G. Martin is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$2,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$2,750.00

3. Respondents Kluger and S.G. Martin are jointly and severally liable for:

<u>Forum Fees</u>	= \$8,325.00
<u>Total Fees</u>	= \$8,325.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$8,325.00

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**

Howard Breindel, Esq.	-	Public Arbitrator, Presiding Chairperson
Kenneth L. Stewart	-	Public Arbitrator
Jerry P. DeNigris	-	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 is which is my award.

\_\_\_\_\_  
Howard Breindel, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Kenneth L. Stewart  
Public Arbitrator

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

\_\_\_\_\_  
Jerry P. DeNigris  
Non-Public Arbitrator

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

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

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**ARBITRATION PANEL**

Howard Breindel, Esq.	-	Public Arbitrator, Presiding Chairperson
Kenneth L. Stewart	-	Public Arbitrator
Jerry P. DeNigris	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

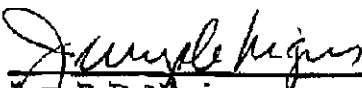
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

\_\_\_\_\_  
Howard Breindel, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Kenneth L. Stewart  
Public Arbitrator

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

  
\_\_\_\_\_  
Jerry P. DeNigris  
Non-Public Arbitrator

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

AUGUST 31, 2004

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

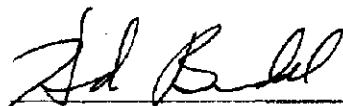
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Howard Breindel, Esq.  
Public Arbitrator, Presiding Chairperson

8/26/04

Signature Date

Kenneth L. Stewart  
Public Arbitrator

Signature Date

Jerry P. DeNigris  
Non-Public Arbitrator

Signature Date

AUGUST 31, 2004  
Date of Service (For NASD Dispute Resolution use only)