
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-03054

Krishna C. Tripathi, Individually and as
Trustee of the Krishna C. Tripathi Trust
Usha R. Tripathi, Individually and as
Trustee of the Usha R. Tripathi Trust

Names of the Respondents

Hearing Site: Tampa, FL

A.G. Edwards & Sons, Inc.
Securities America, Inc.
Greg Sutfin
John Romano

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

REPRESENTATION OF PARTIES

For Krishna C. Tripathi, Individually and as Trustee of the Krishna C. Tripathi Trust and Usha R. Tripathi, Individually and as Trustee of the Usha R. Tripathi Trust, hereinafter collectively referred to as "Claimants": Stephen D. Spivey, Esq., Ocala, FL.

For Respondents A.G. Edwards & Sons, Inc. ("AGE") and Greg Sutfin ("Sutfin"): Matthew R. Salamon, Esq., Litigation Counsel, AGE, St. Louis, MO.

For Respondents Securities America, Inc. ("SAI") and John Romano ("Romano"): Robert R. Ambler, Jr., Esq., Womble Carlyle Sandridge & Rice, Atlanta, GA.

CASE INFORMATION

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

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

Respondents SAI and Romano's Response to Statement of Claim filed on or about: August 5, 2003.

Respondent Romano signed the Uniform Submission Agreement: August 8, 2003.

Respondent SAI signed the Uniform Submission Agreement: June 27, 2003.

Respondents AGE and Sutfin's Answer to Statement of Claim filed on or about: January 27, 2003.

Respondent AGE signed the Uniform Submission Agreement: May 16, 2003.

Respondent Sutfin signed the Uniform Submission Agreement: May 20, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) violations of the Florida Securities Investor Protection Act; 2) violations of the Securities Act of 1934; 3) violations of the Securities Exchange Act of 1933; and, 4) state and federal common law fraud, misrepresentation, and unsuitability. The causes of action relate to the purchase of Bear Stearns S&P Stars Portfolio mutual fund and numerous unspecified securities in Claimants' accounts.

Unless specifically admitted in their respective Answers, Respondents AGE, Sutfin, SAI, and Romano denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages of \$166,400.00, costs, and attorneys' fees.

Respondents AGE and Sutfin requested dismissal of the Statement of Claim, costs, and for any other and further relief deemed appropriate under the facts and circumstances of the case.

Respondents SAI and Romano requested dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 6, 2004, Claimants advised NASD Dispute Resolution that the parties had settled the above-referenced matter.

On or about November 17, 2004, Respondent Romano filed an Unopposed Verified Motion for Stipulated Award and Expungement of Registered Representatives Record ("Motion for Stipulated Award"). In the Motion, Respondent Romano requested that all references on his U-4 or any other regulatory filings that refer or relate to a customer complaint or arbitration filed by Claimants be expunged and permanently erased from Respondent Romano's records and that the undersigned arbitrators (the "Panel") enter an award finding in favor of Respondent Romano on all of Claimants' claims and dismissing Claimants' claims against Respondent Romano with prejudice. In the Motion, Respondent Romano set out the following verified facts which Claimants do not oppose:

- a. Claimants presented themselves as sophisticated, experienced investors who had 10 years experience investing in stocks and bonds and 15 years experience investing in mutual funds and who had managed their own portfolio of over \$2,000,000.00.
- b. Respondent Romano presented Claimants with numerous proposals from Lockwood Financial Services, Inc. ("Lockwood"), a money management firm known for its use of multiple money managers to assist clients in reaching their investment objectives.
- c. Claimants indicated an investment risk attitude that showed their willingness to invest in risky or aggressive investments to meet their objectives (including a primary goal of capital growth).
- d. Claimants ultimately transferred two accounts to Respondent Romano and chose to invest \$600,000.00 in two growth oriented Lockwood equity managers.

- e. Respondent Romano understood that Claimants were transferring additional accounts in order to further diversify their investments. Claimants did not complete the transfer of those accounts.
- f. Claimants' investments were consistent with their stated goals and objectives.
- g. When the market began to decline, Respondent Romano recommended that Claimants further diversify their investments. Claimants declined to follow this recommendation.

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 and the Motion for Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' Statement of Claim is dismissed, with prejudice, with a finding of no responsibility, liability, or wrong-doing on the part of Respondent Romano.
2. The Panel finds good reasons exist for expungement relief in the above-captioned arbitration proceeding. Accordingly, the Panel recommends the expungement of all references to the above-captioned arbitration or to any customer complaint filed by Claimants from Respondent Romano's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Romano 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
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondents AGE and SAI are member firms and parties.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

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

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No hearing on the merits was postponed or settled within three business days before the start of a scheduled hearing session.

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 assessed 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), 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: December 18, 2003 1 session	

Total Forum Fees	= \$1,125.00
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The Panel has assessed \$375.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$375.00 of the forum fees jointly and severally to Respondents AGE and Sutfin.

The Panel has assessed \$375.00 of the forum fees jointly and severally to Respondents SAI and Romano.

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	= \$ 300.00
Retained Hearing Session Deposit	= \$ 750.00
<u>Forum Fees</u>	<u>= \$ 375.00</u>

Total Fees	= \$ 1,425.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent AGE is solely liable for:

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

Respondent SAI is solely liable for:

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

Respondents AGE and Sutfin are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 375.00
Total Fees	= \$ 375.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

Respondents SAI and Romano are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 375.00
Total Fees	= \$ 375.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

Nickolas F. Monteforte, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph A. Diglio	-	Public Arbitrator
Samuel M. Niden	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Nickolas F. Monteforte, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Joseph A. Diglio
Public Arbitrator

Signature Date

/s/
Samuel M. Niden
Non-Public Arbitrator

Signature Date

December 22, 2004
Date of Service (For NASD Dispute Resolution office use only)

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Total Fees	= \$ 1,425.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent AGE is solely liable for:

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

Respondent SAI is solely liable for:

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

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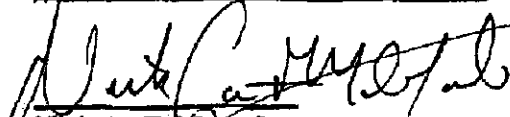
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Nickolas F. Monteforte, Esq.
Joseph A. Diglio
Samuel M. Niden

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


Nickolas F. Monteforte, Esq.
Public Arbitrator, Presiding Chairperson

Dec 7, 2004
Signature Date

Joseph A. Diglio
Public Arbitrator

Signature Date

Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent AGE is solely liable for:

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

Respondent SAI is solely liable for:

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

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Joseph A. Diglio	-	Public Arbitrator
Samuel M. Niden	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Nickolas F. Monteforte, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Joseph A. Diglio
Public Arbitrator


Signature Date

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Amia

Samuel M. Niden
Non-Public Arbitrator

12.7.2004
Signature Date

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