

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

CASE: 03-04046

Geek Securities, Inc., Claimant v. Sunstate Equity Trading, Inc. and James Kelly, Respondents.

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**ATTORNEYS:**

For Claimant, Geek Securities, Inc., ("Claimant"), appeared Brett Dohner, Boca Raton, FL.

Respondents, collectively known as "Respondents":

For Respondent, Sunstate Equity Trading, Inc., ("Sunstate"), appeared James R. Kelly, Tampa, FL.

Respondent, James Kelly, ("Kelly") appeared pro se, Tampa, FL.

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**NATURE OF DISPUTE:** Member v. Member and Associated Person

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**DATE FILED:** June 4, 2003

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**CASE SUMMARY:** Claimant alleged that Respondents failed to reimburse a security deposit pursuant to their contract, and that Respondents ordered and then failed to pay for the installation of a new door. Claimant maintains that due to Respondents' action, the corporation suffered financial losses.

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**ARBITRATOR'S REPORT:** See attached Exhibit A.

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**Claim Data**

Claim: \$15,721.74

Filing Fees: \$1,475.00

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**Award Data**

Award: \$.00

Filing Fees: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of Claimant are dismissed in their entirety. 2) All other relief requests are denied. 3) The \$1,050.00 filing fee previously deposited with NASD Dispute Resolution, shall be retained by NASD Dispute Resolution.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, both Claimant and Respondent Sunstate Equity Trading, Inc. have each paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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Date of Service (For NASD-DR office use only)

## Exhibit A

Claimant seeks recovery from respondents amounting to \$17,196.24—consisting of \$14,228.24 that claimant contends was deposited with SunGard Trading Systems and is now due to it from respondents under an assignment agreement; \$1,493.00 as cost of door installation on claimant's premises for use by respondents; and \$1,475.00 charges for NASD dispute resolution.

Claimant's case consists of unsubstantiated assertions, and no damages are awarded.

According to claimant, in 2001 it executed a service bureau agreement with SunGard and at that time made a security deposit of \$14,228.24. Neither the agreement itself nor other evidence showing the existence of such deposit has been furnished. On November 19, 2002, the agreement between claimant and SunGard was assigned by claimant to one of the respondents, Sunstate. A letter of assignment bearing signatures of officials of SunGard, claimant, and respondent is furnished. (Although James Kelly is cited by claimant as a respondent, Mr. Kelly executed the agreement only as President of Sunstate.) This letter makes no reference to a security deposit. Indeed, in a letter from claimant to respondent dated May 2, 2003, the former asserts it approved the assignment because "...we were assured that the security deposit of \$14,228.24 would be reimbursed to Geek Securities, Inc. Geek has not to date been reimbursed by Sunstate Equities Trading." Assured by whom? On what evidence? Furthermore, in the letter of assignment SunGard also stipulates that all outstanding invoices owing by claimant to SunGard be paid as of that date. No evidence is furnished to show that such payments were made, and therefore it is not possible to conclude that the assignment was perfected. In light of these omissions, respondent should not be held responsible for reimbursement of the asserted security deposit.

With respect to charges for the installation of a door on claimant's premises, claimant's submission contains documents purporting to cover the prospective occupancy by respondent of a portion of premises leased by claimant and also the leasing or acquisition of certain equipment. None is actually executed by any party thereto. While the cost of a door that claimant permitted to be installed was billed to respondent, no documentary evidence is furnished to show authorization by respondent or liability to respondent for such cost.

As a result of failure to sustain the claims made, all charges for NASD resolution must be assessed to the claimant.