

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimant _____

Case Number: 03-04068

Richard Tullie and Diane Tullie, JT TEN
Richard Tullie IRA
Diane Tullie and Ronald Tullie, JT TEN
Ronald Tullie IRA
Jerrold Troutner

Names of the Respondents

Hearing Site: Philadelphia, Pennsylvania

Paul M. Price
John P. Cherney
Patrick J. Vaughan
Ferris, Baker Watts, Inc.

Nature of the Dispute: Customers vs. Associated Persons and Member.

REPRESENTATION OF PARTIES

Claimants, Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN, Ronald Tullie IRA, and Jerrold Troutner, hereinafter collectively referred to as "Claimants", were represented at the hearing by Richard J. Edson, Esq., Law Offices of Richard J. Edson, Sacramento, California.

Respondent, Paul M. Price ("Price"), hereinafter referred to as "Respondent Price", represented himself at the hearing.

Respondents, Ferris, Baker Watts, Inc. ("FBW"), John P. Cherney ("Cherney"), and Patrick J. Vaughan ("Vaughan"), were represented by Matthew Farley, Esq., Drinker Biddle & Reath, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on May 21, 2003.

Amendment to the Statement of Claim filed on July 22, 2003.

Claimants filed a Second Amended Statement of Claim on September 16, 2003.

Claimant Richard Tullie signed the Uniform Submission Agreement on September 13, 2003 and on September 21, 2003.

Claimant Diane Tullie signed the Uniform Submission Agreement on September 10, 2003 and September 15, 2003.

Claimant Ronald Tullie signed the Uniform Submission Agreement on September 17, 2003 and September 20, 2003.

Claimant Jerrold Troutner signed the Uniform Submission Agreement on April 27, 2003 and September 13, 2003.

Respondent Price filed a Statement of Answer on August 25, 2003.
Respondent Price did not file a signed Uniform Submission Agreement.

Respondents FBW and Vaughan filed a Joint Statement of Answer on August 28, 2003.
Respondents FBW and Vaughan filed a Motion for a More Definite Statement of Claim on August 26, 2003.
Respondents FBW and Vaughan filed an Amended Statement of Answer on September 25, 2003.
A representative of Respondent FBW signed the Uniform Submission Agreement on June 20, 2003.
Respondent Vaughan signed the Uniform Submission Agreement on August 21, 2003.

Respondent Price filed a Motion for Sanctions on June 17, 2004.
Respondents FBW and Vaughan joined in Respondent Price's Motion for Sanctions by letter dated July 9, 2004.
Claimant filed a Response to Respondent Price's Motion for Sanctions and a Request for Sanctions on July 9, 2004.
Respondent Price filed a Reply to Claimants' Response to his Motion for Sanctions and Claimants' Request for Sanctions on July 13, 2004.
Respondent Price filed a Motion to Reaffirm his Motion for Sanctions on September 18, 2004 and on September 21, 2004.
Claimants withdrew their Motion for Sanctions on September 17, 2004.

In Claimants' Amended Statement of Claim, Claimants amended their original Statement of Claim to dismiss Respondent Cherney without prejudice.

On October 1, 2004, Claimants dismissed with prejudice the Statement of Claim as pertaining to Respondents FBW and Vaughan only.

CASE SUMMARY

Claimants, in their Statement of Claim and Amended Statements of Claim, asserted the following causes of action, among others: unsuitability, unauthorized trading, fraud, deceit, negligence, breach of fiduciary duty, material misrepresentations and/or omissions of fact, and failure to supervise. The causes of action relate to the purchase and sale of unspecified options.

Unless specifically admitted in his Statement of Answer, Respondent Price denied the allegations made in the Statement of Claim.

Unless specifically admitted in their Statement of Answer, Respondents FBW and Vaughan denied the allegations made in the Statement of Claim and asserted the following affirmative defenses: Claimants' claims are barred by the applicable statutes of limitations; Claimants' claims are barred by the doctrines of estoppel, waiver, ratification and laches; and failure to mitigate damages.

RELIEF REQUESTED

Claimants in their Statement of Claim, Amended Statement of Claim and Second Amended Statement of Claim requested compensatory damages in the amount of \$285,822.52; disgorgement of Respondents' commissions, margin interest and other compensation; punitive damages; interest; costs; and attorneys' fees.

Respondent Price, in his Statement of Answer, requested that the Claim be dismissed in its entirety.

Respondents FBW and Vaughan requested an award dismissing the claims and denying any recovery, and assessing all forum fees, as well as the cost of defense. Respondent Vaughan also requested that the Arbitration Panel (the "Panel") direct the expungement of this claim from his records maintained at the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Price 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, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted. Additionally, Respondent Price specifically agreed to submit his dispute to arbitration before the panel.

In their Amendment to the Statement of Claim filed on July 22, 2003, Claimants dismissed their claim without prejudice against Respondent Cherney.

On September 3, 2004, the Panel issued an Order indicating that any rulings on the Cross-Motions for Sanctions are held in abeyance and will be decided at a later time.

On September 29, 2004, the Panel issued an Order indicating that any rulings on the Cross-Motions for Sanctions will continue to be held in abeyance and will be decided at the hearing on the merits.

On October 1, 2004, Claimants dismissed with prejudice their claims against Respondents FBW and Vaughan.

At the hearing on the merits on October 13, 2004, Claimant Troutner withdrew with prejudice his claims against Respondent Price.

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, 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. Respondent Price shall pay compensatory damages to Claimants Richard and Diane Tullie in the amount of sixty-eight thousand five hundred and thirty-two dollars and zero cents (\$ 68,532.00), plus six-percent (6%) interest on that amount. Interest shall be calculated on a simple basis and shall accrue from the date the Award is served through the date the Award is paid in full;
2. Respondent Price shall pay compensatory damages to Claimants Ronald and Diane Tullie in the amount of fifty-two thousand three hundred and ninety-four thousand dollars and zero cents (\$ 52,394.00), plus six-percent (6%) interest on that amount. Interest shall be calculated on a simple basis and shall accrue from the date this Award is served through the date the Award is paid in full;
3. Claimants Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN and Ronald Tullie IRA shall pay to Respondent Price four thousand dollars and zero cents (\$ 4,000.00) in sanctions for discovery violations;
4. Claimant Troutner shall pay to Respondent Price five thousand dollars and zero cents (\$ 5,000.00) in sanctions for discovery violations;
5. Claimants' claims for punitive damages are denied in their entirety;
6. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
7. Any and all relief not specifically addressed herein is denied in its entirety.

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
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent FBW is a party.

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

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 Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: January 13, 2004 1 session	

Six (6) Hearing sessions @ \$ 1,125.00	= \$ 6,750.00
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Hearing Dates:	October 12, 2004	2 sessions
	October 13, 2004	2 sessions
	October 14, 2004	2 sessions

Total Forum Fees	= \$ 7,875.00
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1. The Panel has assessed \$ 2,250.50 of the forum fees jointly and severally to Claimants Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN, and Ronald Tullie IRA.
2. The Panel has assessed \$ 1,687.50 of the forum fees jointly and severally to Claimants Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN, Ronald Tullie IRA, and Jerrold Troutner.
3. The Panel has assessed \$ 3,937.50 of the forum fees to Respondent Price.

EEE SUMMARY

1. Claimants, Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN, and Ronald Tullie, IRA are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,550.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

2. Claimants, Richard Tullie and Diane Tullie, JT TEN, Richard Tullie IRA, Diane Tullie and Ronald Tullie, JT TEN, Ronald Tullie, IRA, and Jerrold Troutner are jointly and severally assessed and shall pay:

<u>Forum Fees</u>	= \$ 1,687.50
<u>Total Fees</u>	= \$ 1,687.50
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,687.50

3. Respondent FBW is assessed and shall pay:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 00.00

4. Respondent Price is assessed and shall pay:

<u>Forum Fees</u>	= \$ 3,937.50
<u>Total Fees</u>	= \$ 3,937.50
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,937.50

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

ARBITRATION PANEL

Jack M. Marden, Esq.	-	Public Arbitrator, Presiding Chairperson
Cynthia H. Plishtin	-	Public Arbitrator, Panelist
John R. Wheeling	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Jack M. Marden, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Cynthia H. Plishtin
Public Arbitrator, Panelist

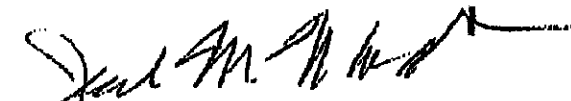
Signature Date

John R. Wheeling
Non-Public Arbitrator, Panelist

Signature Date

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

Concurring Arbitrators' Signatures



Jack M. Marden, Esq.

Public Arbitrator, Presiding Chairperson

12/15/04

Signature Date

Cynthia H. Plishtin

Public Arbitrator, Panelist

Signature Date

John R. Wheeling

Non-Public Arbitrator, Panelist


Signature Date

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

Concurring Arbitrators' Signatures

Jack M. Marden, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Cynthia H. Plishtin
Public Arbitrator, Panelist


Signature Date

John R. Wheeling
Non-Public Arbitrator, Panelist

Signature Date


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Jack M. Marden, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Cynthia H. Plishtin
Public Arbitrator, Panelist

Signature Date



John R. Wheeling
Non-Public Arbitrator, Panelist

10/19/04

Signature Date

10/22/04

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