

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rita Sand and Rita Sand IRA (Claimants) v. Kirlin Securities, Inc. (Respondent)

Case Number: 03-04576

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member.

REPRESENTATION OF PARTIES

Claimants Rita Sand ("Sand") and Rita Sand IRA ("Sand IRA") hereinafter collectively referred to as "Claimants": Robert G. Heim, Esq., Meyers & Heim, LLP, New York, NY.

Respondent Kirlin Securities, Inc. ("Kirlin") hereinafter referred to as "Respondent": Barry Bordetsky, Esq., Kirlin Securities, Inc., Syosset, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 23, 2003.

Claimant Sand signed the Uniform Submission Agreement: June 21, 2003.

Motion to Dismiss and Answer filed by Respondent on or about: August 19, 2003.

Respondent signed the Uniform Submission Agreement: August 19, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; negligence; breach of contract; violations of the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934; violations of the antifraud provisions of New York State's Martin Act; common law fraud; damages pursuant to New York General Business Law Section 349 – Deceptive Acts and Practices Unlawful; violations of NASD rules; negligent misrepresentation; respondeat superior; control person liability; and failure to supervise. Claimants' claim involved common stock; corporate bonds; and mutual funds.

Unless specifically admitted in its Motion to Dismiss and Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$600,000.00; punitive damages in the amount of \$150,000.00; interest at the statutory rate of 9% per annum; costs, including expert witness fees, filing fees, and hearing costs; reasonable attorneys' fees; and all other relief that the Panel may find is just and proper.

Respondents requested that all causes of action be dismissed prior to the hearing; and that judgment be entered against Claimant on all other causes of action.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent made a motion to dismiss. The Panel denied the motion.

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. Respondent is liable for and shall pay to Claimant Sand compensatory damages in the amount of \$175,000.00.
2. The securities listed on attached Exhibit A (except for those listed on lines 1-6, 8-11, and 41-46) that are currently held in any of Claimants' accounts, are to be turned over to Respondent for its own account.
3. 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	= \$375.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Kirlin Securities, Inc. is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 4-6, 2004, adjournment by Respondent	= \$1,200.00
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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 Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: December 1, 2003	1 session
Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates: June 15, 2004	2 sessions
June 16, 2004	2 sessions
Total Forum Fees	= \$6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$3,000.00 of the forum fees against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:	
Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

2. Respondent is solely liable for:

Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$11,200.00
<u>Less payments</u>	= \$ 8,200.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

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

ARBITRATION PANEL

Robert Youdelman, Esq.	-	Public Arbitrator, Presiding Chairperson
Madelon M. Rosenfeld, Esq.	-	Public Arbitrator
John B. Morgan, Esq.	-	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.

Robert Youdelman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date

John B. Morgan, Esq.
Non-Public Arbitrator

Signature Date

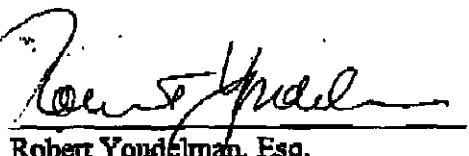
Date of Service (For NASD Dispute Resolution use only)

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Robert Youdelman, Esq.
Public Arbitrator, Presiding Chairperson

6/17/04

Signature Date

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date

John B. Morgan, Esq.
Non-Public Arbitrator

Signature Date

June 21, 2004

Date of Service (For NASD Dispute Resolution use only)

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Signature Date



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John B. Morgan, Esq.
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Signature Date

June 21, 2004

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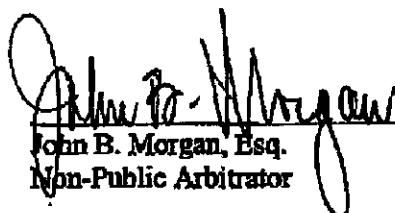
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Public Arbitrator, Presiding Chairperson

Signature Date

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date



John B. Morgan, Esq.
Non-Public Arbitrator

06/17/2004

Signature Date

June 21, 2004

Date of Service (For NASD Dispute Resolution use only)

TRANSACTION DETAIL

RITA SAND - ACCH 03039/1047-7761-0596/53Y-314502 - 1/99 TO 11/03

A	B	C	D	E
NAME	DATE ACQUIRED/ RECEIVED	# OF SHARE ACQUIRED	DATE SOLD/ DELIVERED	# OF SHARE LIQUIDATED
1 ADM VALUETD B	01/01/99	290.00	03/20/00	290.00
2 FRANKLIN PUTT FLD TACK FRIE PD	06/01/99	371.77	11/23/99	371.77
3 FRANKLIN PUTT FLD TACK FRIE PD	06/01/99	2,454.36	03/20/99	2,454.36
4 KIRKLAND DOWNTOWN SERVICED PD	06/01/99	342.20	01/28/99	342.20
5 MAINSTAY HIGH YIELD BOND FD B	01/01/99	2,926.61	01/28/00	2,926.61
6 FREEZE INCOME FD B	01/01/99	1,554.22	08/24/99	1,554.22
7 UNITS FIRST TR NICH INTERNET QWTH T	01/21/99	1,000.00	05/24/99	1,000.00
8 MAINSTAY HIGH YIELD BOND FD B	01/23/99	1,300.37	05/24/99	1,300.37
9 MAINSTAY HIGH YIELD BOND FD B	01/23/99	27.26	05/24/99	27.26
10 MAINSTAY HIGH YIELD BOND FD B	02/23/99	28.97	05/24/99	28.97
11 MAINSTAY HIGH YIELD BOND FD B	03/31/99	27.90	05/24/99	27.90
12 MUNDER NETNET FD B	04/06/99	233.81	12/08/99	233.81
13 MUNDER NETNET FD B	05/24/99	278.04	01/07/00	185.63
14				
15 PERLESS SYS	05/26/99	500.00	06/21/99	500.00
16 BARNESANDNOBLE.COM	06/24/99	300.00	07/30/99	300.00
17 MUNDER NETNET FD B	06/24/99	241.20	01/07/00	241.20
18 BARNESANDNOBLE.COM	06/25/99	500.00	07/30/99	500.00
19 AOL	07/30/99	100.00	10/04/99	100.00
20 UNITS VK SOFTWARE TR SR 1 5 YR	09/24/99	1,000.00	01/07/00	1,000.00
21 MUNDER NETNET FD B	09/27/99	4.00	01/07/00	4.00
22 MUNDER NETNET FD B	09/27/99	0.63	01/07/00	0.63
23 MUNDER NETNET FD B	09/27/99	0.37	01/07/00	0.37
24 WINSTAR COMM	10/04/99	300.00	10/04/99	300.00
25 BTRADE	10/13/99	400.00	10/13/99	400.00
26 3COM	10/14/99	400.00	11/16/99	400.00
27 3COM	10/22/99	400.00	11/16/99	400.00
28 SHOP AT HOME	11/12/99	1,500.00	01/23/00	1,500.00
29 NETBANK	11/22/99	500.00	12/29/99	100.00
30			12/29/99	400.00
31 UBD	11/22/99	500.00	11/22/99	500.00
32 CADENCE DESIGN	11/23/99	500.00	12/08/99	500.00
33 AT&T	11/26/99	300.00	12/08/99	300.00
34 THEGLOBE.COM	11/29/99	500.00	11/28/00	500.00
35 RHYTHMS NETCONNECTIONS	12/03/99	500.00	01/07/00	500.00
36 NETBANK	12/06/99	500.00	05/30/00	500.00
37 INTERMEDIA	12/08/99	500.00	12/17/99	500.00
38 KIRLIN HLDG	12/09/99	1,000.00	02/14/00	500.00
39			02/14/00	500.00
40 KIRLIN HLDG	12/13/99	1,000.00	02/14/00	1,000.00
41 ADM VALUETD B	12/13/99	5.00	03/20/00	5.00
42 ADM VALUETD B	12/13/99	15.00	03/20/00	15.00
43 ADM VALUETD B	12/13/99	0.00	03/20/00	0.00
44 ADM VALUETD B	12/13/99	0.00	03/20/00	0.00
45 MAINSTAY HIGH YIELD BOND FD B	12/13/99	17.00	03/20/00	17.00
46 MAINSTAY HIGH YIELD BOND FD B	12/13/99	0.00	03/20/00	0.00
47 INTEL	01/14/00	200.00	01/20/00	200.00
48 SHOP AT HOME	01/19/00	1,000.00	01/27/00	1,000.00
49 UNITS VK HIGH TECH 35 INDEX SER 100	01/21/00	2,000.00	04/18/00	2,000.00

SOURCE: CLIENT'S MONTHLY BROKERAGE STATEMENTS

Exhibit A.