

Stipulated Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimant

Judy H. Coleman

Case Number: 03-06475

Names of the Respondents

SouthTrust Securities, Inc.

First Union Brokerage Services, Inc.

Scott A. McQuilken

Douglas Smith

BB&T Investment Services, Inc.

Stephen R. Sturkie

BB&T Corporation

SouthTrust Bank

First Union Corporation

Hearing Site: Charlotte, North Carolina

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Nature of the Dispute: Customer vs. Members, Associated Persons, and Non-Members.

REPRESENTATION OF PARTIES

Claimant Judy Coleman, hereinafter referred to as "Claimant", was represented by Catherine Garbee Griffin, Esq., Baker, Ravenel & Bender LLP, Columbus, South Carolina.

Respondents SouthTrust Securities, Inc., Scott McQuilken, First Union Brokerage Services, Inc. and Douglas Smith, were represented by Victor L. Hayslip, Esq., Burr & Forman LLP, Birmingham, Alabama.

Respondents BB&T Investment Services, Inc., BB&T Corporation, and Stephen R. Sturkie, were represented by T. Jonathan Adams, Esq., Hamilton Fay Moon Stephens Steele & Martin, PLLC, Charlotte, North Carolina.

Respondent First Union Corporation was represented by Barbara Wright, Esq., Wachovia Corporation, Charlotte, North Carolina.

SouthTrust Bank was not represented by counsel.

CASE INFORMATION

Statement of Claim was filed on September 4, 2003.

Claimant signed the Uniform Submission Agreement on September 3, 2003.

Statement of Answer and Motion for More Definite Statement of Claim filed by Respondent SouthTrust Securities, Inc. on November 14, 2003.

A representative of Respondent SouthTrust Securities, Inc. signed the Uniform Submission Agreement on October 23, 2003.

Statement of Answer filed by Respondents BB&T Investment Services, Inc. and Stephen R. Sturkie on November 14, 2003.

Respondent Stephen R. Sturkie signed the Uniform Submission Agreement on November 13, 2003.

A representative of Respondent BB&T Investment Services, Inc. signed the Uniform Submission Agreement on November 13, 2003.

Statement of Answer filed by Respondents First Union Brokerage Services, Inc., Scott McQuilken and Douglas Smith on December 4, 2003.

Respondents First Union Brokerage Services, Inc., Scott McQuilken and Douglas Smith did not file Uniform Submission Agreements with NASD Dispute Resolution.

Response to Respondent SouthTrust Securities' Motion for More Definite Statement of Claim was filed on December 4, 2003.

Claimant's Amended Statement of Claim is dated June 11, 2004.

Claimant's Second Amended Statement of Claim is dated June 14, 2004.

On August 15, 2005, the parties jointly stipulated and agreed to Claimant's withdrawal of the instant action, in its entirety, as against Respondents First Union Brokerage Services, Inc. and Doug Smith.

Joint Stipulation of Dismissal as to claims against Respondents and Joint Motion for Expungement filed by Respondents on or about November 9, 2005.

#### CASE SUMMARY

Claimant asserted the following causes of action: negligence; unsuitability; churning/switching; fraud and constructive fraud; negligent misrepresentation; violation of Rule 10b-5; breach of fiduciary duty; unjust enrichment; negligent supervision; respondeat superior; mortgage loan broker liability; and unfair trade practices. The causes of action relate to the purchase of various securities and the management of Claimant's investment portfolio.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statements of Claim and asserted various affirmative defenses.

#### RELIEF REQUESTED

Claimant requested the following damages: (1) unspecified compensatory damages; (2) punitive damages; (3) costs of this action; (4) interest; (5) attorney fees; and (6) further relief as may be just.

Respondents requested the following: (1) costs; (2) arbitration fees; (3) attorneys' fees; (4) expenses incurred in defending against the claims brought by Claimant; (5) further relief as deemed just and proper; and (6) the expungement of this matter from the individual Respondents' NASD Central Registration Depository ("CRD") record.

### OTHER ISSUES CONSIDERED AND DECIDED

Respondents BB&T Corporation and First Union Corporation did not submit to arbitration at NASD Dispute Resolution.

On October 24, 2003, Claimant withdrew her claims against Respondent SouthTrust Bank without prejudice.

Respondents First Union Brokerage Services, Inc., Scott McQuilken and Douglas Smith did not file with NASD Dispute Resolution, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

By order dated September 27, 2004, the Panel granted Claimant leave to amend her Statement of Claim and accepted the Second Amended Statement Claim filed on June 14, 2004.

On or about November 9, 2005, NASD Dispute Resolution was advised that the parties had reached an amicable resolution to this matter. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

This matter was filed with NASD Dispute Resolution before the April 12, 2004 effective date of Rule 2130 and, therefore, is to be governed by Notice to Members 99-09.

### AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Parties have reached an amicable resolution in this arbitration;
2. This matter is hereby dismissed with prejudice as against all Respondents SouthTrust Securities, Inc., First Union Brokerage Services, Inc., Scott McQuilken, Doug Smith, BB&T Investment Services, Inc. and Stephen R. Sturkie;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents McQuilken's, Sturkie's and Smith's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents McQuilken, Sturkie and Smith must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

4. The parties shall bear their respective costs and expenses, including attorney's fees, in connection with this arbitration; and
5. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$ 250.00

#### 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 SouthTrust Securities, Inc., First Union Brokerage Services, Inc., and BB&T Investment Services, Inc. are parties.

#### SouthTrust Securities, Inc.'s Member Fees

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

#### First Union Brokerage Services, Inc.'s Member Fees

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

#### BB&T Investment Services, Inc.'s Member Fees

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

January 24-28, 2005 adjournment by the parties = \$1,000.00

1. The Panel has assessed \$250.00 of the adjournment fees to Claimant.
2. The Panel has assessed \$250.00 of the adjournment fees to Respondent SouthTrust

Securities, Inc.

3. The Panel has assessed \$250.00 of the adjournment fees to Respondent First Union Brokerage Services, Inc.
4. The Panel has assessed \$250.00 of the adjournment fees to Respondent BB&T Investment Services, Inc.

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 @ \$1,000.00	= \$1,000.00
Pre-hearing conference: April 20, 2004 1 session	
Total Forum Fees	= \$1,000.00

1. The Panel has assessed \$500.00 of the forum fees to Claimant.
2. The Panel has assessed \$500.00 of the forum fees jointly and severally to Respondents SouthTrust Securities, Inc., First Union Brokerage Services, Inc., Scott McQuilken, Doug Smith, BB&T Investment Services, Inc. and Stephen R. Sturkie.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 250.00
Adjournment Fee	= \$ 250.00
Forum Fees	= \$ 500.00
Retained Hearing Session Deposit	= \$ 500.00
Total Fees	= \$1,500.00
Less payments	= \$1,575.00
Refund Owed Claimant	= \$ 75.00
2. Respondent SouthTrust Securities, Inc. is assessed and shall pay the following fees:

Adjournment Fee	= \$ 250.00
Member Fees	= \$4,450.00
Total Fees	= \$4,700.00
Less refund paid	= \$1,466.66
Less payments	= \$6,583.33
Balance Due NASD Dispute Resolution	= \$ 83.33
3. Respondent First Union Brokerage Services, Inc. is assessed and shall pay the following fees:

Adjournment Fee	= \$ 250.00
Member Fees	= \$4,450.00
Total Fees	= \$4,700.00
Less payments	= \$5,116.66
Balance Due NASD Dispute Resolution	= \$ 83.34

4. Respondent BB&T Investment Services, Inc. is assessed and shall pay the following fees:

Adjournment Fee	= \$ 250.00
Member Fees	= \$4,450.00
Total Fees	= \$4,700.00
Less payments	= \$5,116.67
Balance Due NASD Dispute Resolution	= \$ 83.33

5. Respondents SouthTrust Securities, Inc., First Union Brokerage Services, Inc., Scott McQuilken, Doug Smith, BB&T Investment Services, Inc. and Stephen R. Sturkie are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Larry A. Feldman	-	Public Arbitrator, Presiding Chairperson
Glenn A. Clinefelter	-	Non-Public Arbitrator, Panelist
Robert S. Zuckerman	-	Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures

Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

Signature Date

Glenn A. Clinefelter  
Glenn A. Clinefelter  
Non-Public Arbitrator, Panelist

9/23/06  
Signature Date

Robert S. Zuckerman  
Public Arbitrator, Panelist

Signature Date

September 28, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

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Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
Glenn A. Clinefelter  
Non-Public Arbitrator, Panelist

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

Robert S. Zuckerman  
Robert S. Zuckerman  
Public Arbitrator, Panelist

9/22/06  
Signature Date

September 28, 2006  
Date of Service (For NASD Dispute Resolution office use only)