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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Ames Ray

Case Number: 03-07628

Names of the Respondents  
SunTrust Securities, Inc.  
BHC Securities, Inc. n/k/a Fiserv Securities, Inc.  
National Financial Services LLC  
John Griffin

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

Ames Ray, hereinafter referred to as "Claimant," appeared *pro se*.

For SunTrust Securities, Inc. ("SSI") and John Griffin ("Griffin"): Richard H. Bergman, Esq., Bergman & Jacobs, P.A., Fort Lauderdale, Florida.

For BHC Securities, Inc. n/k/a Fiserv Securities, Inc. ("BHC"): Richard Z. Freemann, Jr., Esq., Freemann Law Offices, Philadelphia, Pennsylvania.

For National Financial Services LLC ("NFS"): Michael G. Shannon, Esq., Brown Raysman Millstein Felder & Steiner LLP, New York, New York.

**CASE INFORMATION**

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

Claimant signed the Uniform Submission Agreement: October 21, 2003.

Statement of Answer filed by Respondents SSI and Griffin on or about: February 6, 2004.

Respondent SSI signed the Uniform Submission Agreement: December 30, 2003 and January 21, 2004.

Respondent Griffin signed the Uniform Submission Agreement: February 23, 2004.

Statement of Answer incorporating request to dismiss the claim filed by Respondent BHC on or about: January 28, 2004.

Respondent BHC did not file an executed Uniform Submission Agreement.

Statement of Answer and Motion to Dismiss filed by Respondent NFS on or about: January 30, 2004.

Reply to Statement of Answer of Respondent BHC filed by Claimant on or about: February 4, 2004.

Reply to Statement of Answer of Respondent NFS filed by Claimant on or about: February 17, 2004.

Motion to Compel and to Impose Sanctions filed by Claimant on or about: May 20, 2004.

Response in Opposition to Motion to Compel and Impose Sanctions filed by Respondent BHC on or about: May 28, 2004.  
Motion to Strike and for Sanctions filed by Respondents SSI and Griffin on or about: June 13, 2005.  
Motion to Amend Statement of Claim filed by Claimant on or about: February 23, 2006.  
Motion to Strike Amended Complaint filed by Respondents SSI and Griffin on or about: March 14, 2006.

### **CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of contract; 2) breach of fiduciary duty; 3) fraud; 4) violations of unspecified federal and state laws; 5) negligence; 6) gross negligence; 7) unauthorized transactions; 8) failure to properly credit dividends; and 9) failure to supervise. The causes of action relate to Claimant's purchases of the following mutual funds: 1) AIM Income; 2) AIM Value; 3) AIM Capital Development; 4) AIM Limited Maturity Treasury; and 5) unspecified Franklin bond funds.

Unless specifically admitted in their respective Answers, each Respondent denied the allegations made in the Statement of Claim, and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in an amount between \$30,000.00 and \$50,000.00; 2) punitive damages in the amount of \$100,000.00; 3) costs; 4) attorneys' fees; 5) interest; 6) disciplinary referral of all Respondents for action by NASD's enforcement division; and 7) such other relief as the undersigned arbitrators (the "Panel") deemed appropriate.

Respondents SSI and Griffin requested: 1) that the Statement of Claim be dismissed with prejudice; 2) that costs of these proceedings be borne by Claimant; 3) reasonable attorneys' fees; 4) expenses; and, 5) such other and further relief as the Panel deemed just and proper.

Respondent BHC requested that: 1) an award be entered in its favor and against Claimant on all claims; 2) Claimant be directed to pay BHC's attorneys' fees, costs and forum fees incurred during these proceedings; and, 3) the claims to be dismissed.

Respondent NFS requested that all claims against NFS be dismissed, with prejudice, in advance of the hearing or, alternatively, that all claims against NFS be denied and all costs and forum fees be assessed against Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent BHC did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim is bound by the determination of the Panel on all issues submitted.

On or about June 24, 2004, the Panel entered an order dismissing with prejudice all

Claimant's claims filed against Respondents BHC and NFS.

On or about September 19, 2005, the Panel entered an order denying Claimant's motion for sanctions and Respondents' SSI and Griffin Motion to Strike and for sanctions.

On or about April 10, 2006, the Panel entered an order denying Claimant's Motion to Amend the Statement of Claim.

At the evidentiary hearing, Claimant made an ore tenus Motion to Amend the Statement of Claim to add the cause of action for spoliation of documents and to add requests for an unspecified amount of punitive damages and interest. At the evidentiary hearing, the Panel denied Claimant's Motion to Amend the Statement of Claim.

The parties 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 SSI is liable on the claim of negligence and shall pay to Claimant compensatory damages in the amount of \$10,577.00.
2. Respondent Griffin is dismissed from this case with prejudice.
3. Any and all other request for relief, including all statutory claims and Claimant's request for punitive damages, Claimant's request for disciplinary referral of all Respondents for action by NASD's enforcement division and the parties' request for attorneys' fees, 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	= \$ 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 SSI and NFS are parties and member firms and BHC is a party and was a member firm.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

### **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:

There were no three-day cancellation fees assessed during these proceedings.

### **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.

There were no injunctive relief fees 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:

Two (2) Decisions on discovery-related motions on the papers with (1) one arbitrator @ \$200.00	= \$ 400.00
Claimant submitted two (2) discovery-related motions	
One (1) Pre-hearing session with one arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: March 9, 2005 1 session	
Three (3) Pre-hearing sessions with the Panel @ \$1,125.00/session	= \$3,375.00
Pre-hearing conferences: May 24, 2004 1 session	
June 22, 2004 1 session	
September 19, 2005 1 session	
Ten (10) Hearing Sessions @ \$1,125.00/session	=\$11,250.00
Hearing sessions: April 24, 2006 2 sessions	
April 25, 2006 2 sessions	
April 26, 2006 2 sessions	
October 24, 2006 2 sessions	
October 25, 2006 2 sessions	

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Total Forum Fees = \$15,475.00

The Panel assessed forum fees in the amount of \$3,095.00 to Claimant.

The Panel assessed forum fees in the amount of \$12,380.00 to Respondent SSI.

**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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant has incurred \$16.09 in administrative costs.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Administrative Costs	= \$ 16.09
Forum Fees	= \$ 3,095.00
Total Fees	= \$ 3,411.09
Less Payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,986.09

Respondent SSI is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$12,380.00
Total Fees	= \$17,580.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$12,380.00

Respondent BHC is solely liable for:

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

Respondent NFS is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
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**

*Gary M. Landau, Esq.*  
*Monroe Mitchell*  
*William James Russell, Jr.*

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

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
/s/  
Gary M. Landau, Esq.  
Public Arbitrator, Presiding Chairperson

November 1, 2006  
Signature Date

\_\_\_\_\_  
/s/  
Monroe Mitchell  
Public Arbitrator

October 31, 2006  
Signature Date

\_\_\_\_\_  
/s/  
William James Russell, Jr.  
Non-Public Arbitrator

November 1, 2006  
Signature Date

November 2, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Oct. 31, 2006, 4:43PM  
NASD Dispute Resolution  
Arbitration No. 03-07628  
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Non-Public Arbitrator

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Gary M. Landau, Esq.  
Public Arbitrator, Presiding Chairperson

11/1/06

Signature Date

Monroe Mitchell  
Public Arbitrator

Signature Date

William James Russell, Jr.  
Non-Public Arbitrator

Signature Date

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Arbitration No. 03-07628  
Award Page 6

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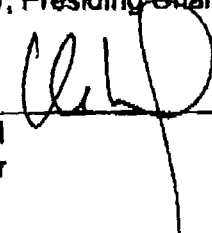
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Public Arbitrator

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10/31/06  
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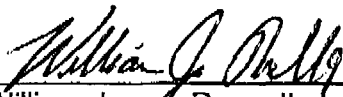
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