

**STIPULATED AWARD  
NASD Dispute Resolution**

---

In the Matter of the Arbitration Between

Names of Claimants

Richard D. Hampton, Kathryn A. Wadley,  
and Shannon Hampton

and

Case Number: 04-00671  
Hearing Site: Oklahoma City, Oklahoma

Names of Respondents

ING Financial Partners, Inc.,  
f/k/a Washington Square Securities, Inc.,  
Robert B. Benjamin, and J. David Weston

---

**NATURE OF CASE**

Customers v. Member and Associated Persons

**REPRESENTATION OF PARTIES**

Richard D. Hampton, Kathryn A. Wadley, and Shannon Hampton ("**Claimants**") were represented by Kirk D. Fredrickson, Esq., McDonald & Frederickson, P.C., Oklahoma City, Oklahoma.

ING Financial Partners, Inc., f/k/a Washington Square Securities, Inc., ("**ING**"), Robert B. Benjamin ("**Benjamin**"), and J. David Weston ("**Weston**"), hereinafter collectively referred to as "**Respondents**," were represented by Tom L. King, Esq., Richard M. Glasgow, Esq., and Justin T. King, Esq., King Law Firm, Oklahoma City, Oklahoma.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 3, 2004. The Submission Agreement of Claimants, Richard D. Hampton, Kathryn A. Wadley, and Shannon Hampton, was signed on or about January 14, 2004.

The Statement of Answer was filed jointly by Respondents, ING Financial Partners, Inc., Robert B. Benjamin and J. David Weston, on or about April 27, 2004. The Submission Agreement of Respondent, ING Financial Partners, Inc., was signed on or about April 8, 2004 by Jacqueline Conly. The Submission Agreement of Respondent, Robert B. Benjamin, was signed on or about April 8, 2004. The Submission Agreement of Respondent, J. David Weston, was signed on or about April 8, 2004.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, negligence/unsuitability, failure to supervise, gross negligence, breach of contract, Blue Sky Fraud Rule 10G-5 claim, and common law fraud. The causes related to the recommendation and purchase of American Skandia Scandia annuity and various mutual funds such as Eaton Vance Income of Boston, AIM Dent Demographic Trend B, and Eaton Vance Class Senior. Claimants alleged that Respondents made unsuitable recommendations and failed to execute sale instructions, which led to losses in their accounts.

Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants' alleged damages, if any, were proximately caused by their own conduct; Claimants' claims are barred by the applicable statute of limitations; Claimants' claims are barred by the doctrines of waiver, estoppel, ratification and laches; Claimants' claims are barred because the risks inherent in the investments at issue were fully disclosed or known to them and they assumed those risks; Claimants' claims are barred because they failed to mitigate their damages and Claimants' claims are barred because they suffered no damages by reason of the acts complained of in the Statement of Claim. Further, the Claimants were sophisticated investors.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$99,000.00, plus punitive damages, costs, attorneys' fees and other relief as the panel deemed just and proper.

Respondents requested dismissal of the Claimants' claim.

### **OTHER ISSUES CONSIDERED & DECIDED**

In furtherance of the parties' agreement concerning the resolution of this matter, Claimants and Respondents seek an Order recommending expungement of the CRD registration records of Respondents, Robert B. Benjamin and J. David Weston, of all reference to these proceedings.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1) Claimants' claims, each and all, are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2) The panel recommends the expungement of all reference to the above captioned arbitration from Respondents, Robert B. Benjamin's and J. David Weston's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents, Robert B. Benjamin and David Weston, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

#### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is ING Financial Partners, Inc.

Member surcharge = \$1,000.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$1,700.00

#### **Adjournment Fees**

Adjournments granted during these proceedings:

October 28-29, 2004, requested by Claimants = \$ 750.00

(fee waived as the parties participated in NASD Mediation)

### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$750.00	= \$ 750.00
Pre-hearing conference: June 29, 2004	1 session
Total Forum Fees	= \$ 750.00

The Arbitration Panel has assessed \$375.00 of the forum fees jointly and severally to Richard D. Hampton, Kathryn A. Wadley, and Shannon Hampton.

The Arbitration Panel has assessed \$375.00 of the forum fees jointly and severally to ING Financial Partners, Inc., Robert B. Benjamin, and J. David Weston.

### **Fee Summary**

Claimants, Richard D. Hampton, Kathryn A. Wadley, and Shannon Hampton, are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 600.00
Less payments	= \$ 975.00
Refund due to Claimants	= \$ 375.00

Respondent, ING Financial Partners, Inc., is liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, ING Financial Partners, Inc., Robert B. Benjamin, and J. David Weston, are jointly and severally liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

**ARBITRATION PANEL**

Robert Steven Haught, Esq. - Public Arbitrator, Presiding Chair  
Gary W. Swimley, Esq. - Public Arbitrator  
Wallace W. Kunzman, Jr., Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Robert Steven Haught, Esq.  
Robert Steven Haught, Esq.  
Public Arbitrator, Presiding Chair

02/01/06  
Signature Date

/s/ Gary W. Swimley, Esq.  
Gary W. Swimley, Esq.  
Public Arbitrator

02/07/06  
Signature Date

/s/ Wallace W. Kunzman, Jr., Esq.  
Wallace W. Kunzman, Jr., Esq.  
Non-Public Arbitrator

02/03/06  
Signature Date

02/09/06  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

**Robert Steven Haight, Esq. - Public Arbitrator, Presiding Chair**

**Gary W. Swimley, Esq. - Public Arbitrator**

**Wallace W. Kunzman, Jr., Esq. - Non-Public Arbitrator**

### Concurring Arbitrators:

Robert Steven Haught, Esq.  
Robert Steven Haught, Esq.  
Public Arbitrator, Presiding Chair

24-06  
Signature Date

**Gary W. Swimley, Esq.**  
**Public Arbitrator**

**Signature Date**

**Wallace W. Kunzman, Jr., Esq.**  
**Non-Public Arbitrator**

**Signature Date**

**Date of Service (For NASD office use only)**

**ARBITRATION PANEL**

Robert Steven Haught, Esq. - Public Arbitrator, Presiding Chair  
Gary W. Swimley, Esq. - Public Arbitrator  
Wallace W. Kunzman, Jr., Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Robert Steven Haught, Esq.  
Public Arbitrator, Presiding Chair

Gary W. Swimley  
Gary W. Swimley, Esq.  
Public Arbitrator

Signature Date

Feb 7, 2006  
Signature Date

Wallace W. Kunzman, Jr., Esq.  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Robert Steven Haight, Esq. - Public Arbitrator, Presiding Chair  
Gary W. Swimley, Esq. - Public Arbitrator  
Wallace W. Kunzman, Jr., Esq. - Non-Public Arbitrator

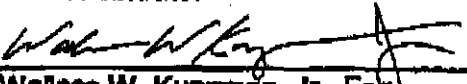
**Concurring Arbitrators:**

\_\_\_\_\_  
Robert Steven Haight, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Gary W. Swimley, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Wallace W. Kunzman, Jr., Esq.  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD office use only)