

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kevin M. Kyle and Crystal A. Kyle, Claimants v. Round Hill Securities, Inc. and William H. Wilkinson III, Respondents

Case Number: 04-01197

Hearing Site: Portland, Oregon

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Robert Bertsch, Esq.
Bertsch & Associates
Port Washington, New York

For Respondents:

Andrew M. Zack, Esq.
Munro, Bergesen and Zack PLC
Troy, Michigan

CASE INFORMATION

Statement of Claim filed: February 24, 2004

Claimants' Joint Uniform Submission Agreement signed: February 3, 2004

Respondents' Joint Statement of Answer received: April 6, 2004

Respondent Round Hill Securities, Inc.'s Uniform Submission agreement signed: March 2, 2004

Respondent Robert H. Wilkinson III's Uniform Submission agreement signed: March 17, 2004

CASE SUMMARY

Claimants alleged misrepresentation, violations of federal securities laws, violations of state securities laws, negligence, unsuitability, and churning, involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$700,000.00 in compensatory damages, interest at the legal rate and costs, including attorneys' fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and costs, including attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On June 6, 2004, Respondents moved the Panel to dismiss time barred causes of action contained in the Statement of Claim. On August 24, 2004, after due deliberation in an executive session, the Panel dismissed Claimants' federal statutory claims which were withdrawn by Claimants. The Panel granted Respondents' motion to preclude matters preceding February 23, 1998 in connection with Claimants' churning and unsuitability claims. The Panel denied Respondents' motion to dismiss Claimants' common law misrepresentation claim without prejudice to Respondents' right to establish at the hearing that the existence of the misrepresentation claim was discovered or should have been discovered more than two years prior to the filing of Claimants' Statement of Claim. The Panel deferred decision on Respondents' Motion to Dismiss Claimants' negligence claim and requested that the Parties submit further briefing on that issue.

On or about September 23, 2004, Respondents moved the Panel to dismiss Claimants' claims for negligence. On October 4, 2004, after due deliberation in an executive session, the Panel denied the motion without prejudice to Respondents' right to establish at the hearing that one or more of Claimants' claims were, or should have been discovered by claimants at a time that made them time-barred prior to the filing of Claimants' 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.

STIPULATION

The Parties to this arbitration stipulate as follows:

Whereas, Claimants Kevin Kyle and Crystal A. Kyle (Claimants) have brought certain claims against Respondents Round Hill Securities, Inc. ("RHSP") and William H. Wilkinson III ("Wilkinson") before the NASD Dispute Resolution, Inc. for arbitration and resolution and were assigned claim No. 04-01197;

Whereas, RHSI and Wilkinson have denied all material allegations of Claimants' claims;

Whereas, the parties have entered into a Confidential Settlement Agreement and Release ("the Settlement Agreement") regarding Claimants' claims against Respondents;

Whereas, pursuant to the Settlement Agreement, Claimants have dismissed Respondents from these arbitration proceedings, with prejudice;

Whereas, Wilkinson did not make any monetary contribution to the settlement;

Whereas, Claimants do not oppose Respondents' request that their complaint against Respondent Wilkinson be expunged from the latter's Forms U-4, U-5 and any other report or reporting document;

Now, therefore, Claimant and Respondents stipulate and agree as follows:

1. The arbitrators should dismiss the above arbitration with prejudice.
2. The arbitrators should recommend and direct that all references to the complaints of the Claimants or the claim filed by them be expunged from the records of the Respondent Wilkinson maintained by the NASD in its Central Registration Depository (CRD), with the understanding that, pursuant to NASD Notice to Members 99-09, NASD Regulation will not execute the expungement directive until the arbitration award is confirmed by a court of competent jurisdiction.
3. In the event the arbitrators determine that this stipulation does not constitute an adequate basis upon which to recommend and direct that all references to the complaints of the Claimants or the claim filed by them be expunged from the records of Respondent Wilkinson maintained by the NASD in its Central Registration Depository ("CRD"), Respondent Wilkinson requests that the arbitrators conduct an evidentiary hearing to allow the parties an opportunity to provide additional evidence to support such expungement.
4. Respondent Wilkinson shall bear any additional costs or fees charged by the NASD in connection with any proceedings that occur to obtain expungement.

AWARD

After considering the pleadings, and the Parties' request for this stipulated award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. The arbitration denominated Kevin Kyle and Crystal A. Kyle v. Round Hill Securities, Inc. and William H. Wilkinson III, NASD Case No. 04-01197, is dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent William H. Wilkinson III's registration records maintained by the NASD "CRD", with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent William H. Wilkinson III must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Parties shall bear their respective costs, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Round Hill Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel.

The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: May 27, 2004 1 session	

Total Forum Fees	= \$ 1,200.00
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1. The Panel assessed \$600.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants Kevin M. Kyle and Crystal A. Kyle are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 975.00
Less payments	= \$ (1,575.00)
Refund Due Claimants	= \$ (600.00)

2. Respondent Round Hill Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$ (7,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Round Hill Securities, Inc. and William H. Wilkinson III are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 600.00

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

ARBITRATION PANEL

O. Meredith Wilson Jr., Esq.	-	Public Arbitrator, Presiding Chair
Nancy E. Hochman, Esq.	-	Public Arbitrator
John E. Bates	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

O. Meredith Wilson Jr.
O. Meredith Wilson Jr., Esq.
Chair, Public Arbitrator

March 16, 2005
Signature Date

Nancy E. Hochman, Esq.
Nancy E. Hochman, Esq.
Public Arbitrator

Signature Date

John E. Bates
John E. Bates
Non-Public Arbitrator

Signature Date

3/21/05
Date of Service

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ARBITRATION PANEL

O. Meredith Wilson Jr., Esq.	-	Public Arbitrator, Presiding Chair
Nancy E. Hochman, Esq.	-	Public Arbitrator
John E. Bates	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

O. Meredith Wilson Jr., Esq.
Chair, Public Arbitrator

Signature Date

NE Hochman

Nancy E. Hochman, Esq.
Public Arbitrator

3/16/05

Signature Date

John E. Bates
Non-Public Arbitrator

Signature Date

3/21/05
Date of Service

ARBITRATION PANEL

O. Meredith Wilson Jr., Esq.	-	Public Arbitrator, Presiding Chair
Nancy E. Hochman, Esq.	-	Public Arbitrator
John E. Bates	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

O. Meredith Wilson Jr., Esq.
Chair, Public Arbitrator

Signature Date

Nancy E. Hochman, Esq.
Public Arbitrator

Signature Date

John E. Bates
John E. Bates
Non-Public Arbitrator

03.09.05
Signature Date

3/21/05
Date of Service

STIPULATED AWARD

NASD Dispute Resolution

KEVIN KYLE and)	
CRYSTAL A. KYLE,)	
)	
Claimants,)	
)	
v.)	NASD No. 04-01197
)	
ROUND HILL SECURITIES, INC.)	
and WILLIAM H. WILKINSON III,)	
)	
Respondents.)	

The Parties to this arbitration stipulate as follows:

Whereas, Claimants Kevin Kyle and Crystal A. Kyle (Claimants) have brought certain claims against Respondents Round Hill Securities, Inc. ("RHST") and William H. Wilkinson III ("Wilkinson") before the NASD Dispute Resolution, Inc. for arbitration and resolution and were assigned claim No. 04-01197;

Whereas, RHST and Wilkinson have denied all material allegations of Claimants' claims;

Whereas, the parties have entered into a Confidential Settlement Agreement and Release ("the Settlement Agreement") regarding Claimants' claims against Respondents;

Whereas, pursuant to the Settlement Agreement, Claimants have dismissed Respondents from these arbitration proceedings, with prejudice;

Whereas, Wilkinson did not make any monetary contribution to the settlement;

Whereas, Claimants do not oppose Respondents' request that their complaint against Respondent Wilkinson be expunged from the latter's Forms U-4, U-5 and any other report or reporting document;

Now, therefore, Claimant and Respondents stipulate and agree as follows:

1. The arbitrator(s) should dismiss the above arbitration with prejudice.
2. The arbitrator(s) should recommend and direct that all references to the complaints of the Claimants or the claim filed by them be expunged from the records of Respondent Wilkinson maintained by the NASD in its Central Registration Depository (CRD), with the understanding that, pursuant to NASD Notice to Members 99-09, NASD Regulation will not execute the expungement directive until the arbitration award is confirmed by a court of competent jurisdiction.
3. In the event the arbitrator(s) determines that this stipulation does not constitute an adequate basis upon which to recommend and direct that all references to the complaints of the Claimants or the claim filed by them be expunged from the records of Respondent Wilkinson maintained by the NASD in its CRD, Respondent Wilkinson requests that the arbitrator(s) conduct an evidentiary hearing to allow the parties an opportunity to provide additional evidence to support such expungement.
4. Respondent Wilkinson shall bear any additional costs or fees charged by the NASD in connection with any proceedings that occur to obtain expungement.

IT IS SO STIPULATED.

Dated: 12/21/01

Robert Bertsch/AB72

- See attached fax signature page

Robert Bertsch
Attorney for Claimants

Dated: 12/21/04

Andrew M. Zack

Andrew M. Zack
Attorney for Respondents

ORDER

The parties having so stipulated, the arbitrator(s) makes the following ORDERS:

1. The arbitration denominated Kevin Kyle and Crystal A. Kyle v. Round Hill Securities and William H. Wilkinson III, NASD Case No. 04-01197, is dismissed with prejudice.
2. The arbitrator(s) recommends and directs that all references to the complaints of the Claimant or the claim filed by him be expunged from the records of Respondent Wilkinson maintained by the NASD in its CRD.