

**Amended Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

James and Teresa Verrillo

Case Number: 04-02106

Name of the Respondent

Janney Montgomery Scott, L.L.C.

Hearing Site: Boca Raton, Florida

Name of the Third-Party Respondent

Albert J. Copperstone

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

**REPRESENTATION OF PARTIES**

For James and Teresa Verrillo, hereinafter referred to as "Claimants": Mark F. Raymond, Esq., Broad & Cassel, Miami, Florida.

For Janney Montgomery Scott, L.L.C., hereinafter referred to as "Respondent JMS": Paula D. Shaffner, Esq., Saul Ewing, L.L.P., Philadelphia, Pennsylvania.

For Albert J. Copperstone, hereinafter referred to as "Third-Party Respondent": Delmer C. Gowing, III, Esq., Delmer C. Gowing, III, P.A., Ocean Ridge, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 26, 2004.

Claimant signed the Uniform Submission Agreement on: March 18, 2004.

Respondent JMS' Answer to Claimants' Statement of Claim and Third-Party Claim against Albert J. Copperstone filed on or about: June 25, 2004.

Respondent JMS signed the Uniform Submission Agreement on: May 17, 2004.

Response to Third-Party Claim against Albert J. Copperstone and Counterclaim filed by Third-Party Respondent Copperstone on or about: September 8, 2004.

Third-Party Respondent Copperstone signed the Uniform Submission Agreement on: August 17, 2004.

Respondent JMS' Response to Third-Party Respondent's Counterclaim filed on or about: October 25, 2004.

Respondent JMS' Motion to Dismiss Counterclaim of Third-Party Respondent Copperstone filed on or about: June 3, 2005.

Response to Motion to Dismiss filed by Third-Party Respondent Copperstone on or about: June 27, 2005.

Respondent JMS and Third-Party Respondent Copperstone's Joint Motion to Amend the Pleadings filed on or about: September 29, 2005.

Respondent JMS and Third-Party Respondent Copperstone's Joint Motion to Amend Award filed on or about: August 15, 2006.

### **CASE SUMMARY**

Claimant asserted the following causes of action: 1) violations of the Florida Blue Sky Law; 2) negligent supervision; and 3) breach of fiduciary duty. The causes of action relate to the purchase and sale of unspecified securities in Claimants' joint accounts.

Unless specifically admitted in its Answer, Respondent JMS denied the allegations made in the Statement of Claim, asserted various affirmative defenses and asserted a Third Party claim for indemnification and contribution. In addition, in its Answer to Third-Party Respondent Copperstone's Counterclaim, Respondent JMS denied the allegations therein and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Third Party Respondent denied the allegations made in Respondent's Third-Party claim, asserted various affirmative defenses and asserted a Counterclaim for negligence against Respondent.

### **RELIEF REQUESTED**

Claimants requested: 1) compensatory damages in the amount of \$1,000,000.00; 2) pre-judgment interest; 3) costs; and 4) such other relief as the Panel deems just and proper.

Respondent JMS requested: 1) a dismissal of the Statement of Claim in its entirety; and 2) assessment of the costs of the proceeding, including attorneys' fees, against the Claimants.

With respect to its Third-Party claim as amended, Respondent JMS requested indemnification for any amount which may be awarded against Respondent JMS pursuant to the Statements of Claim filed in this matter and in NASD case # 04-0755.

With respect to his Counterclaim, Third Party Respondent Copperstone requested that the Panel award compensatory damages in the amount of \$10,000,000.00 against Respondent JMS.

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

On or about July 25, 2005, the Panel denied, without prejudice, Respondent JMS' Motion to Dismiss the Counterclaim of Third-Party Respondent Copperstone.

On or about August 22, 2005, Claimants filed with NASD Dispute Resolution a notice of settlement of all claims against Respondent JMS. Respondent JMS and Third-Party Respondent Copperstone maintained their respective Third-Party claim and Counterclaim.

Respondent JMS and Third-Party Respondent Copperstone filed a Joint Motion to Amend the Pleadings to include Respondent JMS' claims for contribution and indemnification against Third-Party Respondent Copperstone and defenses raised by

Third-Party Respondent Copperstone, which arose out of NASD case # 04-0755 involving Respondent JMS and Third-Party Respondent Copperstone.

On or about October 13, 2005, the Panel granted Respondent JMS and Third-Party Respondent Copperstone's Joint Motion to Amend the Pleadings.

On or about August 15, 2006, Respondent JMS and Third-Party Respondent Copperstone filed a Joint Motion to Amend Award to include the following language: *"This award shall terminate any and all rights or obligations of the parties hereto with regard to NASD Arbitration Number 04-02106 and NASD Arbitration Number 04-00755."* On or about August 21, 2006, the Panel granted Respondent JMS and Third-Party Respondent Copperstone's Joint Motion to Amend Award.

The parties have agreed that the Amended Award in this matter may be executed in counterpart copies or that a handwritten, signed Amended 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:

The Panel denied Respondent' JMS' Third Party claims for contribution and indemnification in their entirety.

The Panel finds Respondent JMS liable on Third Party Respondent's Counterclaim for negligence resulting in damages from its failure to properly maintain Third Party Respondent Copperstone's registration. Accordingly, Respondent JMS shall pay to Third Party Respondent Copperstone compensatory damages in the sum of \$355,980.00. Additionally, Respondent JMS is liable and shall pay to Third Party Respondent Copperstone \$600.00 representing reimbursement of the counterclaim filing fee previously paid by Third Party Respondent Copperstone to NASD Dispute Resolution.

This award shall terminate any and all rights or obligations of the parties hereto with regard to NASD Arbitration Number 04-02106 and NASD Arbitration Number 04-00755.

Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure ("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
Third Party Claim filing fee	= \$2,000.00

Counterclaim filing fee = \$ 600.00

### **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, Respondent JMS is a party and a member firm.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,500.00</u>
Total Member Fees	= \$8,500.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

August 16 – 22, 2005, adjournment jointly requested by Respondent JMS and Third-Party Respondent Copperstone. = \$1,200.00

The Panel assessed \$600.00 of the adjournment fee to Respondent JMS.

The Panel assessed \$600.00 of the adjournment fee to Third-Party Respondent Copperstone.

### **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 or each decision rendered on a discovery-related motion on the papers. 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) Decision on a discovery-related motion on the papers	
with One (1) arbitrator @ \$200.00	= \$ 200.00
Third-Party Respondent Copperstone submitted (1) discovery-related motion	

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: June 27, 2005 1 session	
Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: August 31, 2004 1 session	
July 25, 2005 1 session	
Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00
Hearing Dates: August 2, 2006 2 sessions	
August 3, 2006 2 sessions	
Total Forum Fees	= \$7,850.00

The Panel has assessed the total forum fees of \$7,850.00 to Respondent JMS.

### **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.

There were no administrative costs incurred during these proceedings.

### **Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent JMS is solely liable for:

Third-Party Claim Filing Fee	= \$ 2,000.00
Member Fees	= \$ 8,500.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 7,850.00
Total Fees	= \$ 18,950.00
Less payments	= \$ 13,700.00
Balance Due NASD Dispute Resolution	= \$ 5,250.00

Third-Party Respondent Copperstone is solely liable for:

Counterclaim Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
Total Fees	= \$ 1,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

**ARBITRATION PANEL**

<i>Lonnie K. Martens, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chairperson</i>
<i>Michael Lau</i>	-	<i>Public Arbitrator</i>
<i>Alvin Shulklapper</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

<i>/s/</i>	08/24/2006
_____ Lonnie K. Martens, Esq. Non-Public Arbitrator, Presiding Chairperson	_____ Signature Date
<i>/s/</i>	08/25/2006
_____ Michael Lau Public Arbitrator	_____ Signature Date
<i>/s/</i>	08/24/2006
_____ Alvin Shulklapper Public Arbitrator	_____ Signature Date

August 25, 2006

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

**ARBITRATION PANEL**

Lonnie K. Martens, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Michael Lau	-	Public Arbitrator
Alvin Shulklapper	-	Public Arbitrator

**Concurring Arbitrators' Signatures**



Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

8-24-06  
Signature Date

\_\_\_\_\_  
Michael Lau  
Public Arbitrator

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

\_\_\_\_\_  
Alvin Shulklapper  
Public Arbitrator

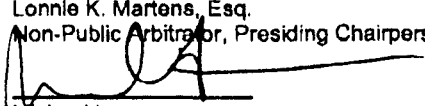
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Signature Date

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Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson  
  
\_\_\_\_\_  
Michael Lau  
Public Arbitrator

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

8/25/06  
\_\_\_\_\_  
Signature Date

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Alvin Shulklapper  
Public Arbitrator

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Signature Date

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<i>Michael Lau</i>	-	<i>Public Arbitrator</i>
<i>Alvin Shulklapper</i>	-	<i>Public Arbitrator</i>

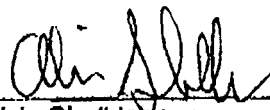
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Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Michael Lau  
Public Arbitrator

Signature Date

  
Alvin Shulklapper  
Public Arbitrator

8/24/06  
Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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

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In the Matter of the Arbitration Between:

Names of the Claimants  
James and Teresa Verrillo

Case Number: 04-02106

Name of the Respondent  
Janney Montgomery Scott, L.L.C.

Hearing Site: Boca Raton, Florida

Name of the Third-Party Respondent  
Albert J. Copperstone

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

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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**

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Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

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Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00
Total Member Fees	= \$8,500.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

August 16 – 22, 2005, adjournment jointly requested by Respondent JMS and Third-Party Respondent Copperstone. = \$1,200.00

The Panel assessed \$600.00 of the adjournment fee to Respondent JMS.

The Panel assessed \$600.00 of the adjournment fee to Third-Party Respondent Copperstone.

### **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:

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### **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.

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with One (1) arbitrator @ \$200.00 = \$ 200.00  
Third-Party Respondent Copperstone submitted (1) discovery-related motion

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Pre-hearing conference: June 27, 2005 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session = \$2,400.00  
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July 25, 2005 1 session

Four (4) Hearing sessions @ \$1,200.00/session = \$4,800.00  
Hearing Dates: August 2, 2006 2 sessions  
August 3, 2006 2 sessions

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Total Forum Fees = \$7,850.00

The Panel has assessed the total forum fees of \$7,850.00 to Respondent JMS.

### **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.

There were no administrative costs incurred during these proceedings.

### **Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent JMS is solely liable for:

Third-Party Claim Filing Fee	= \$ 2,000.00
Member Fees	= \$ 8,500.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 7,850.00
<u>Total Fees</u>	= \$ 18,950.00
<u>Less payments</u>	= \$ 13,700.00
Balance Due NASD Dispute Resolution	= \$ 5,250.00

Third-Party Respondent Copperstone is solely liable for:

Counterclaim Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
<u>Total Fees</u>	= \$ 1,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

### **ARBITRATION PANEL**

<i>Lonnie K. Martens, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chairperson</i>
<i>Michael Lau</i>	-	<i>Public Arbitrator</i>
<i>Alvin Shulklapper</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

/s/

08/08/2006

\_\_\_\_\_  
Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

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

/s/

08/08/2006

\_\_\_\_\_  
Michael Lau  
Public Arbitrator

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

/s/

08/07/2006

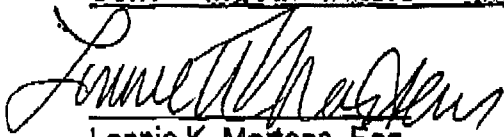
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Alvin Shulklapper  
Public Arbitrator

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

August 8, 2006

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

Concurring Arbitrators' Signatures



Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

Aug. 7, 2006  
Signature Date

\_\_\_\_\_  
Michael Lau  
Public Arbitrator

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

\_\_\_\_\_  
Alvin Shulklapper  
Public Arbitrator

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Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Michael Lau  
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8/8/2006  
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Lonnie K. Martens, Esq.  
Non-Public Arbitrator, Presiding Chairperson

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Signature Date

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Michael Lau  
Public Arbitrator

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Alvin Shulklapper  
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8/7/06  
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