

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

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CASE: 04-02447

Marie and David Shepard, Claimant v. William Edward Sears, Patricia Jean Sears-Million, Cantwell Paul Sandifur, Jr., and Kovack Securities, Inc., Respondents

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**ATTORNEYS:**

For Claimants, Marie and David Shepard, ("Claimants"), appeared Robert S. Banks, Jr., Esq., of the Banks Law Office, P.C., Portland, OR.

For Respondents, William Edward Sears and Patricia Jean Sears-Million, appeared Lois O. Rosenbaum, Esq., of the firm Stoel Rives L.L.P., Portland, OR.

For Respondent, Cantwell Paul Sandifur, Jr., appeared Aaron C. Gundzik, of the firm Cotton & Gundzik L.L.P., Los Angeles, CA.

For Respondent, Kovack Securities, Inc., appeared Brian Kovack, Esq., Fort Lauderdale, FL.

Respondents, William Edward Sears, Patricia Jean Sears-Million, Cantwell Paul Sandifur, Jr., and Kovack Securities, Inc., are collectively referred to as "Respondents."

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**NATURE OF DISPUTE:** Customer v. Member and Associated Persons.

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**DATE FILED:** April 7, 2004.

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**CASE SUMMARY:** Claimants alleged that Respondents William Edward Sears, Patricia Jean Sears-Million, and Cantwell Paul Sandifur, Jr. violated Sections 59.115(1)(b), (2), and (10) of the Oregon Securities Laws. Claimants further alleged that Respondents breached their fiduciary duty by advising investments in Metropolitan and Summit Securities, which were unsuitable to Claimants. Claimants maintained that due to Respondent's negligence, their account suffered financial losses.

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**Claim Data**

Claim: \$14,494.31

Interest: \$3.5736 per day from date of investment  
(2/2/03 for \$10,000.00 and 4/4/03 for  
\$5,000.00, both at 9.0% simple interest.)

Attorney Fees: One-third of awarded damages

Filing Fees: Unspecified

Other: Unspecified

**Award Data**

Award: \$14,494.31

Interest: 9.0% p.a. from 4/4/03 until  
date award is paid.

Attorney Fees: \$4,950.00

Filing Fees: \$425.00

Other: \$0.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondents William Edward Sears, Patricia Jean Sears-Million, and Cantwell Paul Sandifur, Jr. are jointly and severally liable and shall pay to the Claimant \$14,494.31. 2) Respondents William Edward Sears, Patricia Jean Sears-Million, and Cantwell Paul Sandifur, Jr. are jointly and severally liable and shall pay to the Claimant interest at a rate of nine-percent (9.0%) per year from April 4, 2003 until the date the

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award is paid. 3) Respondents William Edward Sears, Patricia Jean Sears-Million, and Cantwell Paul Sandifur, Jr. are jointly and severally liable under Section 59.115 of the Oregon Securities Laws and shall pay to the Claimant attorney fees of \$4,950.00. 4) All requests for punitive damages are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 7) Respondents William Edward Sears, Patricia Jean Sears-Million, and Cantwell Paul Sandifur, Jr., are jointly and severally liable and shall pay Claimant \$425.00 as reimbursement of the filing fee.

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OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent Kovack Securities, Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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OTHER ISSUES: On or about December 2, 2004 Claimants notified NASD Dispute Resolution that they are withdrawing their claims against Respondent Kovack Securities, Inc.

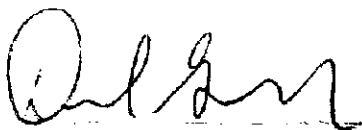
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**ARBITRATOR**

David M. Gaba - Sole Public Arbitrator

**AFFIRMATION**

I, David M. Gaba, do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



David M. Gaba

12-13-04

Signature Date

December 30, 2004  
Date of Service (For NASD-DR office use only)