

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jerome Carnigan & Janice Carnigan (Claimants) vs. Purshe Kaplan Sterling Investments, Peter Purcell, Dennis Colavito, and Heather Dwyer (Respondents)

Case Number: 04-03353

Hearing Site: Albany, New York

Nature of the Dispute: Customers vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Claimants Jerome Carnigan & Janice Carnigan hereinafter collectively referred to as "Claimants": Robert Bertsch, Bertsch & Associates, P.C., Port Washington, NY.

Respondents Purshe Kaplan Sterling Investments ("Purshe Kaplan"), Peter Purcell ("Purcell"), Dennis Colavito ("Colavito"), and Heather Dwyer ("Dwyer") hereinafter collectively referred to as "Respondents": David M. Purcell, Esq., Purshe Kaplan Sterling Investments, Albany, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 7, 2004.

Jerome Carnigan signed the Uniform Submission Agreement: May 27, 2004.

Janice Carnigan signed the Uniform Submission Agreement: May 27, 2004.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: October 1, 2004.

Purshe Kaplan signed the Uniform Submission Agreement: September 29, 2004.

Purcell signed the Uniform Submission Agreement: September 29, 2004.

Colavito signed the Uniform Submission Agreement: September 29, 2004.

Dwyer signed the Uniform Submission Agreement: September 29, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, misrepresentations, churning, suitability, failure to supervise, illegal margins, and violation of the Securities and Exchange Act of 1934. The causes of action relate to unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$150,000.00.

Respondents requested dismissal of the Statement of Claim in its entirety with prejudice, expungement of this matter from Respondent Purcell, Respondent Dwyer, and Respondent Colavito's CRD records, forum fees, and such other and further relief as the Panel deems just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated October 19, 2006 Claimants notified NASD Dispute Resolution that Claimants' dismissed all claims against Respondent Purcell and Respondent Dwyer with prejudice.

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

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. Claimants' claims against Respondent Purshe Kaplan and Respondent Colavito are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, 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	=	WAIVED
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Purshe Kaplan Sterling Investments is a party.

Member Surcharge	= \$	1,700.00
Pre-hearing Process Fee	= \$	750.00
Hearing Process Fee	= \$	2,750.00

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) Pre-hearing session with single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: July 26, 2006 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00 = \$ 2,250.00
Pre-hearing conferences: February 18, 2005 1 session
March 18, 2005 1 session

Five (5) Hearing sessions @ \$1,125.00 per session = \$ 5,625.00
Hearing Dates: August 17, 2005 2 sessions
August 18, 2005 1 session
October 24, 2006 2 sessions

Total Forum Fees = \$ 8,325.00

1. The Panel has assessed \$8,325.00 of the forum fees jointly and severally to Respondents Purshe Kaplan and Colavito.

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

1. Claimants requested copies of hearing tapes
Respondents Purshe Kaplan and Colavito's share = \$ 30.00

Fee Summary

1. Respondent Pursche Kaplan 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

2. Respondents Purshe Kaplan and Colavito are jointly and severally liable for:

Forum Fees	= \$ 8,325.00
Administrative Costs	= \$ 30.00
Total Fees	= \$ 8,355.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,355.00


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

ARBITRATION PANEL

Robert Pincus, Esq.	-	Public Arbitrator, Presiding Chairperson
Ronald J. Vero	-	Public Arbitrator
Theodor Brown	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Robert Pincus, Esq.
Public Arbitrator, Presiding Chairperson

11-30-06

Signature Date

Ronald J. Vero
Public Arbitrator

Signature Date

Theodor Brown
Non-Public Arbitrator

Signature Date

December 1, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Robert Pincus, Esq.	-	Public Arbitrator, Presiding Chairperson
Ronald J. Vero	-	Public Arbitrator
Theodor Brown	-	Non-Public Arbitrator

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Robert Pincus, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Ronald J. Vero

Ronald J. Vero
Public Arbitrator

December 5, 2006

Signature Date

Theodor Brown
Non-Public Arbitrator

Signature Date

December 1, 2006

Date of Service (For NASD Dispute Resolution use only)

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Ronald J. Vero	-	Public Arbitrator
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Robert Pincus, Esq.
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Signature Date

Ronald J. Vero
Public Arbitrator

Signature Date



Theodor Brown
Non-Public Arbitrator

Signature Date

December 1, 2006
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