
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Cardinal Securities LLC
H. David Coherd
Robert L. Rosenstein

Case Number: 04-03629

Names of the Respondents

Scott F. Koch
H.C. Wainwright & Co., Inc.
John R. Clarke

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Member and Associated Person vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Cardinal Securities LLC, H. David Coherd and Robert L. Rosenstein, hereinafter referred to as "Claimants": Raymond L. Moss, Esq., Gerald B. Kline, Esq. and Michael P. Gilmore, Esq., Sims Moss Kline & Davis LLP, Atlanta, Georgia.

For Respondent Scott F. Koch ("Koch"): Gary S. Freed, Esq. and Deborah S. Cameron, Esq., Chamberlain, Hrdlicka, White, Williams & Martin, Atlanta, Georgia.

For Respondents John R. Clarke ("Clarke") and H.C. Wainwright & Co., Inc. ("Wainwright"): John D. Mullen, Esq., Phelps Dunbar LLP, Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 18, 2004.

Claimants signed the Uniform Submission Agreement: May 18, 2004.

Statement of Answer and Counterclaim filed by Respondent Koch on or about: October 14, 2004.

Statement of Answer filed by Respondents Wainwright and Clarke filed on or about: October 15, 2004.

Respondents did not file signed Uniform Submission Agreements.

Motion to Bar Respondents Wainwright and Clarke from Asserting Evidence, Argument and Defenses filed by Claimants on or about: October 12, 2004.

Response to Motion to Bar filed by Respondents Wainwright and Clarke on or about: October 15, 2004.

Motion to Stay Arbitration filed by Respondent Koch on or about: July 8, 2004.

Objection to Motion to Stay filed by Claimants on or about: October 11, 2004.

Notice of Joinder in Respondent Koch's Motion to Stay Arbitration filed by Respondents Wainwright and Koch on or about: October 15, 2004.

Motion to Enforce Settlement Agreement filed by Claimants on or about: September 30, 2005.

Memorandum in Support of their Motion to Enforce Settlement Agreement filed by Claimants on or about:

Stipulated Award
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For Respondent Scott F. Koch ("Koch"): Gary S. Freed, Esq. and Deborah S. Cameron, Esq., Chamberlain, Hrdlicka, White, Williams & Martin, Atlanta, Georgia.

For Respondents John R. Clarke ("Clarke") and H.C. Wainwright & Co., Inc. ("Wainwright"): John D. Mullen, Esq., Phelps Dunbar LLP, Tampa, Florida.

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Memorandum in Support of their Motion to Enforce Settlement Agreement filed by Claimants on or about:

September 30, 2005.

Opposition to Claimant's Motion to Enforce Settlement Agreement filed by Respondent Koch on or about: October 14, 2005.

Motion for Sanctions filed by Claimants on or about: September 16, 2005.

Response to Motion for Sanctions filed by Respondents Wainwright and Clarke on or about: October 3, 2005.

Supplemental Response to Motion for Sanctions filed by Respondents Wainwright and Clarke on or about: October 14, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of express and implied agreement; 2) conversion and misappropriation; 3) breach of fiduciary duty; 4) tortious interference with contract rights and actual and prospective business advantage; 5) unjust enrichment; and, 6) fraudulent conduct. The causes of action relate to alleged activities on the part of Respondent Koch including seizing Claimant Cardinal's corporate business opportunities, breaching his fiduciary duties and misappropriating commission fees, while he was acting as a registered representative and principal of Cardinal.

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

Unless specifically admitted in his Answer, Respondent Koch denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondent Koch filed a counterclaim asserting the following causes of action: 1) conversion; 2) accounting; 3) constructive trust; 4) claim for LLC documents; and, 5) breach of fiduciary duty.

Unless admitted to their Answer, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,000,000.00, pre-judgment interest, declaratory judgment, costs, attorney's fees, punitive damages and such other and further legal and equitable relief as this Panel deemed just, proper and appropriate.

Respondent Koch requested that the Panel enter an order staying this matter and an award of such other and further relief as this Panel deemed appropriate. Respondent filed a Counterclaim requesting an award in his favor, specific performance, compensatory damages in excess of \$500,000.00, interest, costs, attorneys' fees and such other and further relief as this Panel deemed just and appropriate.

Respondents Wainwright and Clarke did not delineate a relief request.

Claimants requested, in their answer to the Counterclaim, that the Counterclaim be dismissed, assessment of all NASD fees against Respondent Koch and an award of such other and further relief as this Panel deemed just, equitable and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about October 26, 2004, the Panel issued an Order that denied Respondents' Motion to Stay and denied Claimants' Motion to Bar Evidence, Arguments and Defenses.

On or about October 17, 2005, the Panel issued an Order that denied Claimants' Motion to Enforce the Settlement Agreement.

On or about October 18, 2005, Claimants and Respondents Wainwright and Clarke filed a Joint Dismissal of Arbitration, with prejudice, as to one another.

Claimants' Motion for Sanctions was never ruled on and, pursuant to the settlement agreement, deemed moot by the Panel.

On or about January 27, 2006, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for the expungement of the NASD Central Registration Depository (the "CRD") Form U-5 of Respondent Koch.

On April 28, 2006, a telephonic hearing was held to hear oral argument on Respondent Koch's request for expungement of his Form U-5.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings and the proposed Stipulated Award with request for expungement of Respondent Koch's Form U-5, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

On or about January 25, 2006, Claimants and Respondent Koch entered into a Settlement Agreement and Release (the "Cardinal/Koch" Settlement"). Now, in lieu of a full hearing before the Panel, the Claimants and Respondent Koch stipulate as follows:

1. The Cardinal/Koch Settlement is expressly incorporated into this Stipulated Award by reference, and the Claimants and Respondent Koch shall strictly, timely and fully comply with their respective covenants, duties and obligations set forth in said Cardinal/Koch Settlement, including but not limited to, any covenants that may provide for the payment of money by a date certain.

2. Claimants, on the one hand and Respondent Koch, on the other hand, shall each be responsible for fifty percent (50%) of any fees, costs, honoraria, assessments and other charges ("NASD Charges"), excluding Member fees, that are currently due and outstanding in this matter, to either party, and NASD Charges which shall hereafter be invoiced by the NASD in the course of concluding this matter.
3. Subject to the specific terms of the Cardinal/Koch Settlement, Claimants will not object to any proceeding that Respondent Koch may initiate to amend or seek expungement of the termination reason on his CRD Form U-5 or regarding this arbitration proceeding with respect to records maintained by NASD CRD. Subject to the specific terms of the Cardinal/Koch Settlement, Koch will not object to any proceeding that any of the Claimants may initiate to amend or seek expungement of references to this arbitration proceeding with respect to records maintained by NASD CRD.
4. All claims that Claimants have asserted or could have asserted against Respondent Koch in this arbitration proceeding are withdrawn and dismissed, with prejudice.
5. All counterclaims that Respondent Koch has asserted or could have asserted against the Claimants or any of them in this arbitration proceeding are withdrawn and dismissed, with prejudice.
6. The parties agree that any and all relief requested in the Statement of Claim, the Counterclaim and /or any pending motions and other matters not specifically addressed herein is deemed moot and denied.
7. Any breach, non-performance or default of any covenants, duties or obligations set forth in the Cardinal/Koch Settlement shall likewise constitute an immediate breach and default of the Stipulated Award.
8. The parties agree that Respondent Koch's Form U-5, prepared by the Cardinal Parties on June 7, 2004, shall be modified. The Panel recommends the expungement from Respondent Koch's Form U-5, filed by Cardinal Securities LLC, of all references to Respondent Koch's termination comment based upon "terminated for conduct involving breach of fiduciary duty, unfair competition, misappropriation of firm's assets and opportunities, misrepresentations and omissions to firm's supervisory principal." The termination comment as reported in question 3 of Respondent Koch's Form U-5 shall be changed to "discharged as employee following change of business relationship with firm." In addition, the Internal Review DRP response to question 7B, Part 1, Question 3, shall be changed from "firm alleges Respondent Koch misappropriated fees from securities placements due to the firm, misappropriated the firm's business opportunities and misrepresented/failed to disclose his unfair dealings against firm" to read "Investigation conducted. Arbitration filed. Parties reached settlement before hearings and no findings were made". Said expungement is with the understanding that Respondent Koch must obtain confirmation from a court of competent jurisdiction before CRD will execute the Form U-5 directive.
9. In connection with the foregoing modifications to said original Form U-5 and Claimants' settlement covenant not to object to any relief that Respondent Koch may seek to expunge or amend said Form U-5, Respondent Koch acknowledges and stipulates that (a) in pursuing any such requested relief, he shall not imply, allege or claim that the Claimants engaged in any error or wrongdoing in connection with (1) the manner in which they investigated any circumstances leading up to Respondent Koch's separation from the firm; (2) the information and content they placed on the Form U-5; or, (3) their decision to file

said U-5; (b) the Claimants shall not be required to incur attorney's fees or other fees and expenses in connection with any such expungement or amendment proceeding; and, (c) in connection with the parties' settlement, the Claimants have agreed to accommodations to Respondent Koch on his Form U-5 but do not expressly or impliedly admit in any respect that said original Form U-5 was inaccurately investigated, completed or improperly filed.

10. It is further stipulated that (i) entering into this Stipulated Award, (ii) the filing of Respondent Koch's original Form U-5, (iii) the modification of the original Form U-5 through this Stipulated Award or, (iv) any modification of the original Form U-5 by order of the Panel herein or any action by NASD or CRD shall not be deemed to constitute a finding, determination or admission of wrongdoing by the Claimants, on the one hand, or Respondent Koch, on the other hand.
11. The parties agree that any proceeding for expungement of NASD CRD records or for confirmation of this Award may be filed in the state or federal courts venued in: (i) Fulton County, Georgia; (ii) Nassau County, New York; or, (iii) Fairfield County, Connecticut, and each of the parties hereby expressly consents to the personal jurisdiction of said courts over them.
12. Upon execution by the Panel, this Stipulated Award shall be effective and enforceable *nunc pro tunc* to the 26th day of January, 2006.
13. Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and the parties' requests for attorneys' fees, 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	= \$1,250.00
Counterclaim filing fee	= \$ 300.00

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, Cardinal Securities LLC is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

H.C. Wainwright & Co., Inc. is a party to this dispute and was member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,250.00
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Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Requests for adjournments were filed in this matter.

May 9 – 16, 2005 – adjournment requested by Respondents	= \$1,200.00
October 31 – November 4, 2005 – joint request for adjournment	= \$1,200.00

The Panel has assessed \$1,000.00 of the adjournment fees jointly and severally to Claimants.

The Panel has assessed \$400.00 of the adjournment fees jointly and severally to Respondents Wainwright and Clarke.

The Panel has assessed \$600.00 of the adjournment fees jointly and severally to Respondents Wainwright, Clarke and Koch.

The Panel has assessed \$400.00 of the adjournment fees to Respondent Koch.

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:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: October 25, 2005 1 session	
Four (4) Pre-hearing sessions with the Panel @ \$1,200.00	= \$4,800.00
Pre-hearing conferences: October 18, 2004 1 session	
May 5, 2005 1 session	
October 17, 2005 1 session	
April 28, 2006 1 session	
Total Forum Fees	= \$5,250.00

Pursuant to the agreement of the parties the Panel has assessed \$2,625.00 of the forum fees jointly and severally to Claimants.

Pursuant to the agreement of the parties the Panel has assessed \$2,625.00 of the forum fees to Respondent Koch.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 1,250.00
Adjournment Fees	= \$ 1,000.00
<u>Forum Fees</u>	<u>= \$ 2,625.00</u>
Total Fees	= \$ 4,875.00
<u>Less payments</u>	<u>= \$ 2,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,425.00

Claimant Cardinal Securities is solely liable for:

<u>Member Fees</u>	<u>= \$7,000.00</u>
Total Fees	= \$7,000.00
<u>Less payments</u>	<u>= \$7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Wainwright is solely liable for:

<u>Member Fees</u>	<u>= \$ 7,000.00</u>
Total Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Koch is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 400.00
<u>Forum Fees</u>	<u>= \$ 2,625.00</u>
Total Fees	= \$ 3,325.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,325.00

Respondents Koch, Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 600.00

Respondents Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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

ARBITRATION PANEL

<i>Frank A. Lightmas, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>J. Pat Sadler</i>	-	<i>Public Arbitrator</i>
<i>Sandra J. Bakalus</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Frank A. Lightmas, Esq.
Public Arbitrator, Presiding Chairperson

05/09/06
Signature Date

/s/
J. Pat Sadler
Public Arbitrator

05/09/06
Signature Date

/s/
Sandra J. Bakalus
Non-Public Arbitrator

05/09/06
Signature Date

05/10/06
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No.04-03629
Stipulated Award Page 8

Respondents Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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J. Pat Sadler

Sandra J. Bakalus

- *Public Arbitrator, Presiding Chairperson*
 - *Public Arbitrator*
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Signature Date

J. Pat Sadler
 Public Arbitrator

Signature Date

S. Bakalus
 Sandra J. Bakalus
 Non-Public Arbitrator

5/9/06
 Signature Date

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

September 30, 2005.

Opposition to Claimant's Motion to Enforce Settlement Agreement filed by Respondent Koch on or about: October 14, 2005.

Motion for Sanctions filed by Claimants on or about: September 16, 2005.

Response to Motion for Sanctions filed by Respondents Wainwright and Clarke on or about: October 3, 2005.

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Claimants asserted the following causes of action: 1) breach of express and implied agreement; 2) conversion and misappropriation; 3) breach of fiduciary duty; 4) tortious interference with contract rights and actual and prospective business advantage; 5) unjust enrichment; and, 6) fraudulent conduct. The causes of action relate to alleged activities on the part of Respondent Koch including seizing Claimant Cardinal's corporate business opportunities, breaching his fiduciary duties and misappropriating commission fees, while he was acting as a registered representative and principal of Cardinal.

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

Unless specifically admitted in his Answer, Respondent Koch denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondent Koch filed a counterclaim asserting the following causes of action: 1) conversion; 2) accounting; 3) constructive trust; 4) claim for LLC documents; and, 5) breach of fiduciary duty.

Unless admitted to their Answer, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,000,000.00, pre-judgment interest, declaratory judgment, costs, attorney's fees, punitive damages and such other and further legal and equitable relief as this Panel deemed just, proper and appropriate.

Respondent Koch requested that the Panel enter an order staying this matter and an award of such other and further relief as this Panel deemed appropriate. Respondent filed a Counterclaim requesting an award in his favor, specific performance, compensatory damages in excess of \$500,000.00, interest, costs, attorneys' fees and such other and further relief as this Panel deemed just and appropriate.

Respondents Wainwright and Clarke did not delineate a relief request.

Claimants requested, in their answer to the Counterclaim, that the Counterclaim be dismissed, assessment of all NASD fees against Respondent Koch and an award of such other and further relief as this Panel deemed just, equitable and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about October 26, 2004, the Panel issued an Order that denied Respondents' Motion to Stay and denied Claimants' Motion to Bar Evidence, Arguments and Defenses.

On or about October 17, 2005, the Panel issued an Order that denied Claimants' Motion to Enforce the Settlement Agreement.

On or about October 18, 2005, Claimants and Respondents Wainwright and Clarke filed a Joint Dismissal of Arbitration, with prejudice, as to one another.

Claimants' Motion for Sanctions was never ruled on and, pursuant to the settlement agreement, deemed moot by the Panel.

On or about January 27, 2006, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for the expungement of the NASD Central Registration Depository (the "CRD") Form U-5 of Respondent Koch.

On April 28, 2006, a telephonic hearing was held to hear oral argument on Respondent Koch's request for expungement of his Form U-5.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings and the proposed Stipulated Award with request for expungement of Respondent Koch's Form U-5, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

On or about January 25, 2006, Claimants and Respondent Koch entered into a Settlement Agreement and Release (the "Cardinal/Koch" Settlement"). Now, in lieu of a full hearing before the Panel, the Claimants and Respondent Koch stipulate as follows:

1. The Cardinal/Koch Settlement is expressly incorporated into this Stipulated Award by reference, and the Claimants and Respondent Koch shall strictly, timely and fully comply with their respective covenants, duties and obligations set forth in said Cardinal/Koch Settlement, including but not limited to, any covenants that may provide for the payment of money by a date certain.

2. Claimants, on the one hand and Respondent Koch, on the other hand, shall each be responsible for fifty percent (50%) of any fees, costs, honoraria, assessments and other charges ("NASD Charges"), excluding Member fees, that are currently due and outstanding in this matter, to either party, and NASD Charges which shall hereafter be invoiced by the NASD in the course of concluding this matter.
3. Subject to the specific terms of the Cardinal/Koch Settlement, Claimants will not object to any proceeding that Respondent Koch may initiate to amend or seek expungement of the termination reason on his CRD Form U-5 or regarding this arbitration proceeding with respect to records maintained by NASD CRD. Subject to the specific terms of the Cardinal/Koch Settlement, Koch will not object to any proceeding that any of the Claimants may initiate to amend or seek expungement of references to this arbitration proceeding with respect to records maintained by NASD CRD.
4. All claims that Claimants have asserted or could have asserted against Respondent Koch in this arbitration proceeding are withdrawn and dismissed, with prejudice.
5. All counterclaims that Respondent Koch has asserted or could have asserted against the Claimants or any of them in this arbitration proceeding are withdrawn and dismissed, with prejudice.
6. The parties agree that any and all relief requested in the Statement of Claim, the Counterclaim and /or any pending motions and other matters not specifically addressed herein is deemed moot and denied.
7. Any breach, non-performance or default of any covenants, duties or obligations set forth in the Cardinal/Koch Settlement shall likewise constitute an immediate breach and default of the Stipulated Award.
8. The parties agree that Respondent Koch's Form U-5, prepared by the Cardinal Parties on June 7, 2004, shall be modified. The Panel recommends the expungement from Respondent Koch's Form U-5, filed by Cardinal Securities LLC, of all references to Respondent Koch's termination comment based upon "terminated for conduct involving breach of fiduciary duty, unfair competition, misappropriation of firm's assets and opportunities, misrepresentations and omissions to firm's supervisory principal." The termination comment as reported in question 3 of Respondent Koch's Form U-5 shall be changed to "discharged as employee following change of business relationship with firm." In addition, the Internal Review DRP response to question 7B, Part 1, Question 3, shall be changed from "firm alleges Respondent Koch misappropriated fees from securities placements due to the firm, misappropriated the firm's business opportunities and misrepresented/failed to disclose his unfair dealings against firm" to read "Investigation conducted. Arbitration filed. Parties reached settlement before hearings and no findings were made". Said expungement is with the understanding that Respondent Koch must obtain confirmation from a court of competent jurisdiction before CRD will execute the Form U-5 directive.
9. In connection with the foregoing modifications to said original Form U-5 and Claimants' settlement covenant not to object to any relief that Respondent Koch may seek to expunge or amend said Form U-5, Respondent Koch acknowledges and stipulates that (a) in pursuing any such requested relief, he shall not imply, allege or claim that the Claimants engaged in any error or wrongdoing in connection with (1) the manner in which they investigated any circumstances leading up to Respondent Koch's separation from the firm; (2) the information and content they placed on the Form U-5; or, (3) their decision to file

said U-5; (b) the Claimants shall not be required to incur attorney's fees or other fees and expenses in connection with any such expungement or amendment proceeding; and, (c) in connection with the parties' settlement, the Claimants have agreed to accommodations to Respondent Koch on his Form U-5 but do not expressly or impliedly admit in any respect that said original Form U-5 was inaccurately investigated, completed or improperly filed.

10. It is further stipulated that (i) entering into this Stipulated Award, (ii) the filing of Respondent Koch's original Form U-5, (iii) the modification of the original Form U-5 through this Stipulated Award or, (iv) any modification of the original Form U-5 by order of the Panel herein or any action by NASD or CRD shall not be deemed to constitute a finding, determination or admission of wrongdoing by the Claimants, on the one hand, or Respondent Koch, on the other hand.
11. The parties agree that any proceeding for expungement of NASD CRD records or for confirmation of this Award may be filed in the state or federal courts venued in: (i) Fulton County, Georgia; (ii) Nassau County, New York; or, (iii) Fairfield County, Connecticut, and each of the parties hereby expressly consents to the personal jurisdiction of said courts over them.
12. Upon execution by the Panel, this Stipulated Award shall be effective and enforceable *nunc pro tunc* to the 26th day of January, 2006.
13. Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and the parties' requests for attorneys' fees, are denied.

FEEES

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	= \$1,250.00
Counterclaim filing fee	= \$ 300.00

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, Cardinal Securities LLC is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

H.C. Wainwright & Co., Inc. is a party to this dispute and was member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,250.00
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Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Requests for adjournments were filed in this matter.

May 9 – 16, 2005 – adjournment requested by Respondents	= \$1,200.00
October 31 – November 4, 2005 – joint request for adjournment	= \$1,200.00

The Panel has assessed \$1,000.00 of the adjournment fees jointly and severally to Claimants.

The Panel has assessed \$400.00 of the adjournment fees jointly and severally to Respondents Wainwright and Clarke.

The Panel has assessed \$600.00 of the adjournment fees jointly and severally to Respondents Wainwright, Clarke and Koch.

The Panel has assessed \$400.00 of the adjournment fees to Respondent Koch.

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:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: October 25, 2005 1 session	
Four (4) Pre-hearing sessions with the Panel @ \$1,200.00	= \$4,800.00
Pre-hearing conferences: October 18, 2004 1 session	
May 5, 2005 1 session	
October 17, 2005 1 session	
April 28, 2006 1 session	
<hr/> Total Forum Fees	<hr/> = \$5,250.00

Pursuant to the agreement of the parties the Panel has assessed \$2,625.00 of the forum fees jointly and severally to Claimants.

Pursuant to the agreement of the parties the Panel has assessed \$2,625.00 of the forum fees to Respondent Koch.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 1,250.00
Adjournment Fees	= \$ 1,000.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 4,875.00
<u>Less payments</u>	= \$ 2,450.00
Balance Due NASD Dispute Resolution	= \$ 2,425.00

Claimant Cardinal Securities is solely liable for:

Member Fees	= \$7,000.00
Total Fees	= \$7,000.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Wainwright is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Koch is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 400.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 3,325.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,325.00

Respondents Koch, Wainwright and Clarke are jointly and severally liable for:

Adjournment Fees	= \$ 600.00
Total Fees	= \$ 600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

Respondents Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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

ARBITRATION PANEL

<i>Frank A. Lightmas, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>J. Pat Sadler</i>	-	<i>Public Arbitrator</i>
<i>Sandra J. Bakalus</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Frank A. Lightmas, Esq.
Public Arbitrator, Presiding Chairperson

05/09/06
Signature Date

/s/
J. Pat Sadler
Public Arbitrator

05/09/06
Signature Date

/s/
Sandra J. Bakalus
Non-Public Arbitrator

05/09/06
Signature Date

05/10/06
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No.04-03629
Stipulated Award Page 8

Respondents Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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

ARBITRATION PANEL

Frank A. Lightmas, Esq.

J. Pat Sadler

Sandra J. Bakalus

- *Public Arbitrator, Presiding Chairperson*
 - *Public Arbitrator*
 - *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Frank A. Lightmas

Frank A. Lightmas, Esq.

Public Arbitrator, Presiding Chairperson

5/9/06

Signature Date

J. Pat Sadler

Public Arbitrator

Signature Date

Sandra J. Bakalus

Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
 Arbitration No.04-03629
Stipulated Award Page 8

Respondents Wainwright and Clarke are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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

ARBITRATION PANEL

<i>Frank A. Lightmas, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>J. Pat Sadler</i>	-	<i>Public Arbitrator</i>
<i>Sandra J. Bakalus</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Frank A. Lightmas, Esq.
 Public Arbitrator, Presiding Chairperson

Signature Date

J. Pat Sadler
 J. Pat Sadler
 Public Arbitrator

5/9/06
 Signature Date

Sandra J. Bakalus
 Non-Public Arbitrator

Signature Date

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