

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Clifford J. Meads and Linda M. Meads

and

Case Number: 04-05124
Hearing Site: Omaha, Nebraska

Names of Respondents

Securities America, Inc.
and Duane M. Russell

NATURE OF DISPUTE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Clifford J. Meads and Linda M. Meads ("**Meads**" or "**Claimants**") were represented by Siegfried M. Brauer, Esq., Brauer Law Office, Kearney, Nebraska.

Securities America, Inc. ("**Securities America**") and Duane M. Russell ("**Russell**"), hereinafter collectively referred to as "**Respondents**", were represented by Andre R. Barry, Esq., Cline, Williams, Wright, Johnson & Oldfather, L.L.P., Lincoln, Nebraska.

CASE INFORMATION

The Statement of Claim was filed on or about July 16, 2004. The Submission Agreement of Claimants was signed on or about July 9, 2004.

The Statement of Answer was filed jointly by Respondents, Securities America, Inc. and Duane M. Russell, on or about September 7, 2004. The Submission Agreement of Securities America was signed on or about August 11, 2004 by Scott Hoyt. The Submission Agreement of Russell was signed on or about September 7, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; failure to supervise; failure to execute; breach of fiduciary duty; misrepresentations/non-disclosures; unauthorized trading; churning; omission of facts; manipulations; and suitability. The

causes of action related to the recommendation and purchase of the Skandia variable annuity investment. Claimants alleged that Respondents failed to recommend suitable investments for their age and financial position, which led to substantial losses in their account. Claimants also alleged that Respondent Russell directed them to inaccurately complete the New Account Application Form without informing them of the significance of their entries.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Meads failed to state a claim on which relief may be granted; the Meads' claims are barred by the applicable statutes of limitation; the Meads' claims are barred by the doctrines of laches, ratification, waiver, and estoppel; and Respondent, Securities America, did not know, and in the exercise of reasonable care, could not have known, of the facts that allegedly give rise to the Meads' claims.

RELIEF REQUESTED

Claimants requested an award in the amount of \$250,000.00 in compensatory damages, plus punitive damages of \$250,000.00, costs and attorneys' fees and other relief the panel deemed just and proper.

Respondents requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing, Claimants moved to have the Panel disallow Respondents' Pretrial Brief as untimely filed. The Panel allowed the Brief and gave Claimants five days to respond to the Brief.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents, Securities America, Inc. and Duane M. Russell, are jointly and severally liable for and shall pay to Claimants, Clifford J. Meads and Linda M. Meads, the sum of \$193,659.00 in compensatory damages;

- 2) Other than Forum Fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim 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. In this matter, the member firm is Securities America, Inc.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings:

July 11-14, 2005 requested by Claimants = \$1,125.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$450.00 = \$ 450.00
Pre-hearing conference: May 19, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00
Pre-hearing conference: December 9, 2004 1 session

Five (5) Hearing sessions x \$1,125.00 = \$5,625.00
Hearing Dates: December 5, 2005 2 sessions
December 6, 2005 2 sessions
December 7, 2005 1 session

Total Forum Fees = \$7,200.00

The Arbitration Panel has assessed \$7,200.00 of the forum fees jointly and severally to Securities America, Inc. and Duane M. Russell.

Fee Summary

Claimants, Clifford J. Meads and Linda M. Meads, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Securities America, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Securities America, Inc. and Duane M. Russell, are jointly and severally liable for:

Forum Fees	= \$ 7,200.00
Total Fees	= \$ 7,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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

ARBITRATION PANEL

Robert Berkshire, Esq. – Public Arbitrator, Presiding Chair
Thomas C. Lauritsen, JD - Public Arbitrator
Wayne B. Smith - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Robert Berkshire, Esq.
Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair

01/05/06
Signature Date

/s/ Thomas C. Lauritsen, JD
Thomas C. Lauritsen, JD
Public Arbitrator

01/05/06
Signature Date

/s/ Wayne B. Smith
Wayne B. Smith
Non-Public Arbitrator

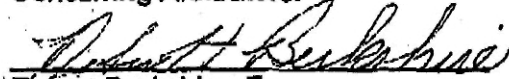
01/06/06
Signature Date

01/06/06
Date of Service (For NASD office use only)

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Wayne B. Smith - Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

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