
**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Jerry M. Turk and Helen R. Turk

Case Number: 04-05367

Names of the Respondents

Sterne Agee Capital Markets, Inc.
Robert Marvin Harris, III

Hearing Site: Tampa, FL

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

REPRESENTATION OF PARTIES

For Jerry M. Turk and Helen R. Turk, hereinafter collectively referred to as "Claimants": Michael S. Taffe, Esq., and Scott LaPorta, Esq., Abel, Band, Russell, Collier, Pitchford and Gordon, Chartered, Sarasota, Florida.

For Sterne Agee Capital Markets, Inc. ("Sterne Agee") and Robert Marvin Harris, III ("Harris"), hereinafter collectively referred to as "Respondents": Michael C. Addison, Esq. and Caryl E. Delano, Esq., Addison and Delano, Tampa, Florida and Thomas L. Krebs, Esq., Peter J. Tepley, Esq. and Dorothy R. Drake, Esq., Haskell, Slaughter, Young and Redliker, L.L.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: July 27, 2004.

Claimants signed the Uniform Submission Agreement: August 6, 2004.

Statement of Answer and Motion to Dismiss filed by Respondents on or about: November 12, 2004.

Respondent Sterne Agee signed the Uniform Submission Agreement: November 10, 2004.

Respondent Harris signed the Uniform Submission Agreement: November 7, 2004.

Response to Respondents' Answer and Motion to Dismiss filed by Claimants on or about: January 10, 2005.

Reply to Claimants' Response to Motion to Dismiss filed by Respondents on or about: January 20, 2005.

Amended Statement of Claim filed by Claimants on or about: July 5, 2005.

Answer to Amended Statement of Claim filed by Respondents on or about: July 26, 2005.

Motion to Dismiss Claimants' Amended Statement of Claim filed by Respondents on or about: August 22, 2005.

Motion to Strike Respondents' Motion to Dismiss Claimants' Amended Statement of Claim filed by Claimants on or about: August 29, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Securities Exchange Act of 1934; violation of the Securities Act of 1933; violation of SEC Rule 10b-5; violation of Florida Statutes section 517.301; breach of fiduciary duty; negligence and negligent misrepresentation; gross negligence and reckless misconduct; failure to

supervise; fraud; unsuitability; and, violation of NASD Rule 2310. The causes of action relate to the purchase of unspecified securities in Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: assumption of risk; all or part of the claims are barred by the applicable statutes of limitations, the doctrine of comparative fault, or the doctrine of laches; and, failure to state a claim upon which relief can be granted. Respondents further asserted that Claimants' claims are, or may be, barred by the doctrine of unclean hands, ratification, in pari delicto, waiver, and estoppel.

RELIEF REQUESTED

Claimants requested rescission of the investment purchase, rescissionary damages in the amount of \$100,000.00, refund of all funds transferred to Respondents, an unspecified amount of punitive damages, interest, costs, attorneys' fees, and such other relief the undersigned arbitrators (the "Panel") deemed proper.

Respondents requested that the Statement of Claim be dismissed in its entirety with prejudice, an award of attorneys' fees, costs, that this matter be expunged from Respondent Harris' NASD Central Registration Depository ("CRD") records, and such other relief the Panel deemed proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 16, 2005, the Panel issued an order denying Respondents' Motion to Dismiss Claimants' Statement of Claim.

On or about September 14, 2005, Claimants notified NASD Dispute Resolution that they had voluntarily dismissed Respondent Harris, that Claimants had reached a settlement of their claims against Respondent Sterne Agee, and that Claimants would submit a proposed Stipulated Award.

On or about October 11, 2005, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of the NASD CRD records of Respondent Harris.

On or about February 9, 2006, the Panel entered an order granting the parties' request for the entry of a Stipulated Award expunging this matter from the NASD CRD records of Respondent Harris.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants have settled and dismissed their claims against Respondent Harris, and have agreed that the expungement of all references to the above-captioned arbitration from Respondent Harris' registration records maintained by the NASD CRD is appropriate. Claimants have settled and dismissed their claim against Sterne Agee.

- 2) After settlement was reached in this matter, the Panel received a request from Respondents that the expungement procedures in the Stipulated Award should not be required to comport with the requirements of NASD Rule 2130 which became effective on April 12, 2004 as the original case in this matter was filed in September 2003, well before the effective date of Rule 2130. The Panel carefully reviewed Respondents' request as well as the order which severed the present case from the original one and hereby finds that this matter is a mere continuation of NASD Dispute Resolution Arbitration Number 03-07036. Accordingly, Rule 2130 does not apply in the matter.
- 3) Based on the foregoing, the Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Harris' registration records maintained by NASD CRD with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Harris must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
- 4) The parties shall bear their respective costs, including attorneys' fees.
- 5) Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied in their entirety.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees:

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
--------------------------	-------------

Member Fees:

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, Sterne Agee is a party and member firm.

Member Surcharge	\$1,100.00
Pre-hearing Process Fee	\$ 750.00
Hearing Process Fee	\$1,700.00

Adjournment Fees:

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Pre-hearing sessions with the Panel @ \$750.00/session		= \$3,000.00
Pre-hearing conferences:		
	February 22, 2005	1 session
	June 1, 2005	1 session
	June 15, 2005	1 session
	February 9, 2006	1 session
<hr/> Total Forum Fees		= \$3,000.00

Pursuant to the agreement of the parties, the Panel has assessed \$1,275.00 of the forum fees to Claimants, jointly and severally, and \$1,725.00 of the forum fees to Respondents, jointly and severally.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$1,275.00
Total Fees	= \$1,500.00
<u>Less Payments</u>	= \$1,500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Sterne Agee is solely liable for:

<u>Member Fees</u>	= \$3,550.00
--------------------	--------------

Total Fees	= \$3,550.00
<u>Less Payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,725.00</u>
Total Fees	= \$1,725.00
<u>Less Payments</u>	<u>= \$1,050.00</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

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

ARBITRATION PANEL

James R. Kennedy, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Sanford O'Leesky	-	Public Arbitrator
Neal J. Tourdo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
James R. Kennedy, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Sanford O'Leesky
Public Arbitrator

Signature Date

/s/
Neal J. Tourdo
Non-Public Arbitrator

Signature Date

February 16, 2006
Date of Service (For NASD Dispute Resolution use only)

Feb. 14. 2006 3:16PM

No. 1139 P. 6/6

NASD Dispute Resolution
Arbitration No. 04-05367
Stipulated Award Page 5

Total Fees	= \$3,550.00
<u>Less Payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

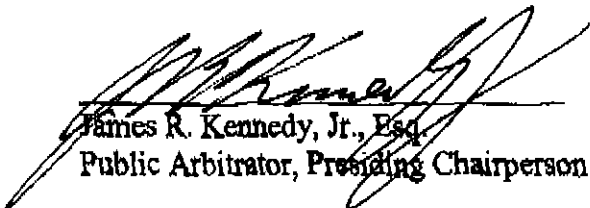
Respondents are jointly and severally liable for:

Forum Fees	= \$1,725.00
Total Fees	= \$1,725.00
<u>Less Payments</u>	<u>= \$1,050.00</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

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

ARBITRATION PANEL

James R. Kennedy, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Sanford O'Leesky	-	Public Arbitrator
Neal J. Tourdo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

James R. Kennedy, Jr., Esq.
Public Arbitrator, Presiding Chairperson

2-15-06
Signature Date

Sanford O'Leesky
Public Arbitrator

Signature Date

Neal J. Tourdo
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
Arbitration No. 04-05367
Stipulated Award Page 5

Total Fees	= \$3,550.00
<u>Less Payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,725.00</u>
Total Fees	= \$1,725.00
<u>Less Payments</u>	<u>= \$1,050.00</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

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

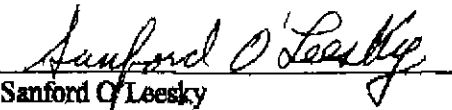
ARBITRATION PANEL

James R. Kennedy, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Sanford O'Leesky	-	Public Arbitrator
Neal J. Tourdo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

James R. Kennedy, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Sanford O'Leesky
Public Arbitrator

2/16/06
Signature Date

Neal J. Tourdo
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
 Arbitration No. 04-05367
Stipulated Award Page 5

Total Fees	= \$3,550.00
Less Payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$1,725.00
Total Fees	= \$1,725.00
Less Payments	= \$1,050.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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

ARBITRATION PANEL

James R. Kennedy, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Sanford O'Leesky	-	Public Arbitrator
Neal J. Tourdo	-	Non-Public Arbitrator

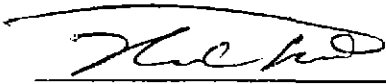
Concurring Arbitrators' Signatures

 James R. Kennedy, Jr., Esq.
 Public Arbitrator, Presiding Chairperson

 Signature Date

 Sanford O'Leesky
 Public Arbitrator

 Signature Date



 Neal J. Tourdo
 Non-Public Arbitrator

2/14/06

 Signature Date

 Date of Service (For NASD Dispute Resolution use only)