

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lon Roth and Peggy Roth, (Claimants) v. JP Turner & Company, LLC, John Barone and
Rushdi Zalatimo, (Respondents)

Case Number: 04-05706

Hearing Site: Dallas, Texas

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

REPRESENTATION OF PARTIES

Claimants, Lon Roth ("Mr. Roth") and Peggy Roth ("Mrs. Roth"): Brian Guillorn, Esquire, New York, New York.

Respondents JP Turner & Company, LLC and John Barone: Dianne L. Papierniak, Esq. of J. P. Turner & Company L.L.C, located in Atlanta, Georgia.

Respondent, Rushdi Zalatimo ("Mr. Zalatimo"): Brian A. Carlis, Esquire, Stark & Stark, Lawrenceville, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: August 11, 2004.

Claimants (Mr. and Mrs. Roth) signed the Uniform Submission Agreement: August 1, 2004.

Statement of Answer and Motion to Dismiss filed by Respondent Mr. Zalatimo on or about: November 15, 2004.

Respondent (Mr. Zalatimo) signed the Uniform Submission Agreement: November 5, 2004.

Respondents JP Turner & Company, LLC and John Barone did not file an Answer or an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: Breach of Fiduciary Duty, Unsuitability, Fraudulent Misrepresentation, Churning and Failure to Supervise. The causes of action relate to stocks.

Unless specifically admitted in its Answer, Respondent Mr. Zalatimo denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: The Statement of Claim fails to state a claim upon which relief may be granted; Claimant directed, approved and authorized each and every transaction; Claimant ratified each and every

transaction; Claimant, by her conduct, and under all the circumstances of this case, is estopped from asserting any claims with respect to the transactions at issue; Claimant failed to mitigate any alleged damages; Any alleged losses which may have occurred were the direct result of market conditions and other factors beyond the control of Respondents; All transactions recommended to and made for or on behalf of Claimant were suitable for and in accordance with her investment objectives and financial condition; Any duties owed by Respondents to Claimant were fully and faithfully carried out; Claimant is barred from recovery because she directly instructed, authorized and consented to the transactions in question; Respondents did not act with any intent to defraud Claimant or with reckless disregard of her interests; There were no misrepresentations or omissions of material fact upon which Claimant relied to her detriment; At all times herein, Claimant knew and was aware of the risks associated with her investments and voluntarily chose to assume those risks. As such, Claimant is barred and estopped from recovery. The risks which Claimant assumed were the direct and proximate result of her losses, if any; The Doctrine of Laches bars Claimant's claims; Respondents are not liable to Claimant because they had no duty, contractual or otherwise, to disclose or inform Claimant of any facts other than those which were disclosed, nor did Respondents breach any duty owed to Claimant, if such a duty existed; The actions of Respondents are not the proximate cause of Claimant's alleged damages; Respondents discharged their responsibilities in a professional and ethical manner and all of their actions were well within the parameters of accepted brokerage procedures and all exchange and governmental regulations; To the extent any losses or diminution in the value of Claimant's account has occurred, such losses were the result of unforeseen market fluctuations and were within the risks assumed; The damage allegedly suffered by Claimant has no causal relationship with any act committed by or legally attributable to Respondents; Respondents, at all times, discharged their responsibilities properly and in good faith in respect of all investments made by Claimant; All allegations as to Respondents set forth in the Statement of Claim are specifically denied; This claim is also barred by any applicable affirmative defenses as a matter of law or equity; To the extent the Statement of Claim seeks damages for any alleged violation of the Rules of the NASD or any other securities industry self-regulatory organization, the Statement of Claim fails to state a claim upon which relief may be granted. There is no private right of action for any alleged violation of the rules of the self-regulatory organization.

RELIEF REQUESTED

Claimants requested in excess of \$120,000.00 in out of pocket losses, punitive damages in the amount of \$360,000.00 and costs, disbursements and reasonable attorney fees incurred in bringing the action.

Respondent Mr. Zalatimo requested dismissal of the Statement of Claim in its entirety along with an award of all reasonable costs and expenses, including reasonable attorneys' fees, costs of suit and such further relief as the arbitration panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On October 25, 2004, Claimants and Respondents JP Turner & Company, LLC and John Barone advised the NASD that they had reached a settlement.

On June 15, 2005, Claimants and Respondent Mr. Zalatimo advised the NASD that they had reached a settlement. In particular, Claimants and Mr. Zalatimo agreed that all claims against Mr. Zalatimo are dismissed with prejudice. Claimants and Mr. Zalatimo agreed to a Stipulation to the Panel whereby the arbitrators would recommend the expungement of this matter from the CRD records of Mr. Zalatimo. The parties 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, and the Stipulation of Claimants and Respondent Mr. Zalatimo, the Panel has entered the resolution of the issues submitted for determination as follows:

1. Claimants and Respondent Mr. Zalatimo have entered into a confidential settlement agreement.
2. All claims against Mr. Zalatimo are hereby dismissed with prejudice.
3. The Arbitration Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Mr. Zalatimo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Mr. Zalatimo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents. Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact: The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.
4. All parties shall bear their own costs and attorneys' fees.
5. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm JP Turner & Company, Inc. is the Respondent's former firm.

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

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:

July 27-29, 2005 settled by Claimants and Zalatimo = \$ 300.00
(\$150.00 to Claimants, \$150 to Zalatimo)

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: January 25, 2005 1 session	
June 15, 2005 1 session	
<u>Total Forum Fees</u>	<u>= \$ 2,250.00</u>

The Panel has assessed \$1,125.00 of the forum fees, jointly and severally, to the Claimants, Lon Roth and Peggy Roth. The Panel has assessed the remaining \$1,125.00 of the forum fees to Respondent Rushdi Zalatimo.

FEE SUMMARY

Claimants Lon Roth and Peggy Roth are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
<u>3-Day Cancellation Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 1,575.00

Less payments = \$ 1,425.00

Balance Due NASD Dispute Resolution	= \$ 150.00
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Respondent Rushdi Zalatimo is solely liable for:

Forum Fees	= \$ 1,125.00
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3 Day cancellation Fee = \$ 150.00

Total Fees	= \$ 1,275.00
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Less payments _____ = \$ 0.00

Balance Due NASD Dispute Resolution	= \$ 1,275.00
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Respondent JP Turner & Company, LLC is solely liable for:

Member Fees = \$ 5,200.00

Less payments = \$ 5,200.00

Balance Due NASD Dispute Resolution	= \$	0.00
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All balances are due and payable to NASD Dispute Resolution

ARBITRATION PANEL

Carol A. Freeland - Public Arbitrator, Presiding Chair

Frances Johnson Wright, J.D. - Public Arbitrator

Terry Landry - Industry Arbitrator

Concurring Arbitrators' Signatures

Carol A. Freedland

Carol A. Freeland

Public Arbitrator, Presiding Chair

2/18/06

Signature Date

Frances Johnson Wright, J.D.

Public Arbitrator

Signature Date

Terry Lindry

Industry Arbitrator, Panelist

Signature Date

Date of Service (For NASD office use only)

Date of Service (For NASD office use only) 2/28/06 LJM

Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Respondent Rushdi Zalatio is solely liable for:

Forum Fees	= \$ 1,125.00
3 Day cancellation Fee	= \$ 150.00
Total Fees	= \$ 1,275.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,275.00

Respondent JP Turner & Company, LLC is solely liable for:

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

All balances are due and payable to NASD Dispute Resolution

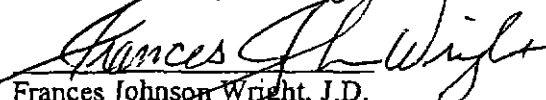
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Terry Landry - Industry Arbitrator

Concurring Arbitrators' Signatures

Carol A. Freeland
Public Arbitrator, Presiding Chair

Signature Date



Frances Johnson Wright, J.D.
Public Arbitrator



Signature Date

Terry Landry
Industry Arbitrator, Panelist

Signature Date

Date of Service (For NASD office use only)



NASD Dispute Resolution
Arbitration No. 04-05706
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<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Respondent Rushdi Zalatimo is solely liable for:

Forum Fees	= \$ 1,125.00
<u>3 Day cancellation Fee</u>	= \$ 150.00
Total Fees	= \$ 1,275.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,275.00

Respondent JP Turner & Company, LLC is solely liable for:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution

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Terry Landry - Industry Arbitrator

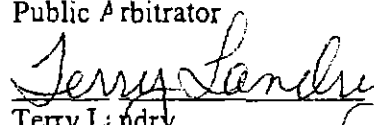
Concurring Arbitrators' Signatures

Carol A. Freeland
Public Arbitrator, Presiding Chair

Signature Date

Frances Johnson Wright, J.D.
Public Arbitrator

Signature Date


Terry Landry
Industry Arbitrator, Panelist

2/16/06
Signature Date

Date of Service (For NASD office use only)

02/28/06 