

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

James H. Padgett

Case Number: 04-05943

Names of the Respondents

Legacy Financial Services, Inc.

Joseph R. Karsner, IV

Hearing Site: Washington, DC

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

**REPRESENTATION OF PARTIES**

Claimant, James H. Padgett, hereinafter referred to as "Claimant", was represented by William B. Young, Esq., Hooper & Weiss, LLC, Orlando, Florida.

Respondents, Legacy Financial Services, Inc. ("Legacy"), and Joseph R. Karsner, IV ("Karsner"), hereinafter collectively referred to as "Respondents", were represented by Jeffrey J. Hines, Esq. and Christopher M. Corchiarino, Esq., Goodell, Devries, Leech & Dann, LLP, Baltimore, Maryland.

**CASE INFORMATION**

Statement of Claim filed on or about August 24, 2004.

Claimant signed the Uniform Submission Agreement on May 20, 2003.

Amended Statement of Claim filed on March 29, 2005.

Claimant filed Response to Motion to Dismiss on November 30, 2004.

Claimant filed Revised Objection and Response to Motion to Dismiss on April 28, 2005.

Motion to Dismiss filed by Respondents on or about November 5, 2004.

Respondent Legacy did not file a Uniform Submission Agreement.

Respondent Karsner signed the Uniform Submission Agreement on October 11, 2004.

Respondents filed Response to Amended Statement of Claim on April 14, 2005.

**CASE SUMMARY**

Claimant in his Statement of Claim alleged that Respondents made unsuitable investment recommendations with regard to his accounts.

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

### **RELIEF REQUESTED**

Claimant in his Statement of Claim requested:

Compensatory Damages	\$198,000.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer and Motion to Dismiss requested that the Arbitration Panel (the "Panel") dismiss the Statement of Claim and Amended Statement of Claim in their entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Legacy did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

By Order dated June 28, 2005, the Panel denied Respondents' Motion to Dismiss.

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

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Upon motion of all parties for a Stipulated Award, as a result of information and documents obtained during the discovery process that all investments at issue were suitable and that the Respondents are not liable for any of the counts in the Statement of Claim and Amended Statement of Claim, the Panel finds that the claims, allegations and information contained in the Statement of Claim and Amended Statement of Claim are clearly erroneous and that the Respondents were not involved in the alleged investment-related sales practice violations, and hereby grants the parties' motion and enters this award granting the following relief:

1. Pursuant to the confidential settlement agreement reached between the parties, all claims against Respondents are dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Karsner's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Karsner 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 Panel has made the following affirmative findings of fact:

The claim, allegation or information is factually impossible or clearly erroneous, and the registered person was not involved in the alleged investment-related sales practice violations.

3. All claims for punitive damages and attorneys' fees are denied in their entirety;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety

### **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	= \$ 300.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Legacy is a party.

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

#### **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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences:    March 17, 2005            1 session	
May 25, 2005            1 session	
<u>Total Forum Fees</u>	<u>= \$2,250.00</u>

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.

2. The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

**FEE SUMMARY**

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent Legacy is assessed and shall pay the following fees:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

4. Respondents are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,125.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution	= \$1,125.00

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

**ARBITRATION PANEL**

Edward A. Dragon, Esq.	-	Public Arbitrator, Presiding Chairperson
Richard P. Regan, Esq.	-	Public Arbitrator, Panelist
John Laing Bowles	-	Non-Public Arbitrator, Panelist

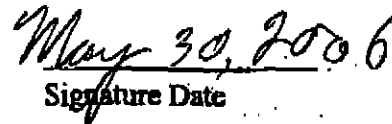
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Edward A. Dragon, Esq.

Public Arbitrator, Presiding Chairperson



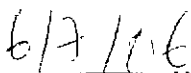
Signature Date

Richard P. Regan, Esq.

Public Arbitrator, Panelist

Signature DateJohn Laing Bowles

Non-Public Arbitrator, Panelist

Signature DateDate of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 04-05943

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**Concurring Arbitrators' Signatures:**


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Edward A. Dragon, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John Laing Bowles  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

**Dissenting Arbitrator's Signature**

  
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Richard P. Regan, Esq.  
Public Arbitrator, Panelist

6/7/06  
\_\_\_\_\_  
Signature Date

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

Concurring Arbitrators' Signatures

NASD DISPUTE RESOLUTION  
MID-ATLANTIC REGION

5/24/06

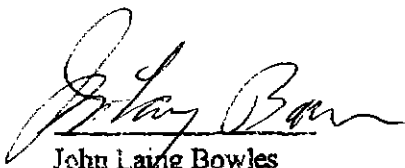
ARBITRATION  
WASHINGTON, DC

Edward A. Dragon, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Richard P. Regan, Esq.  
Public Arbitrator, Panelist

Signature Date



John Laing Bowles  
Non-Public Arbitrator, Panelist

5/23/06

Signature Date

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