

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

---

In the Matter of the Arbitration Between:

Name of the Claimant  
Oliver Richard Butler

Case Number: 04-07594

Name of the Respondent  
Cuna Brokerage Services, Inc.

Hearing Site: Atlanta, Georgia

---

Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Oliver Richard Butler, hereinafter referred to as "Claimant": Charles C. Hunter, Esq., Woska and Hayes, L.L.P., Kingwood, Texas.

For Cuna Brokerage Services, Inc., hereinafter referred to as "Respondent": Adam L. Saper, Esq., Hinshaw & Culbertson LLP, Chicago, Illinois.

**CASE INFORMATION**

*Statement of Claim filed on or about:* October 26, 2004.

*Claimant signed the Uniform Submission Agreement:* June 24, 2004.

*Statement of Answer filed by Respondent on or about:* January 13, 2005.

*Respondent signed the Uniform Submission Agreement:* November 30, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: controlling person liability pursuant to Section 20(A) of the Exchange Act; breach of fiduciary duty; breach of contract; violation of Know Your Customer Rule; unsuitability; failure to diversify; over concentration; failure to supervise; violations of the securities laws; and, failure to hedge. The causes of action relate to Claimant's investments in unspecified stocks, mutual funds and bond funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimant requested that the arbitration panel order Respondent to reimburse him for damages in excess of \$150,000.00, including but not limited to: all direct losses in the accounts; all charges to the accounts; the lost earnings that the accounts would have earned if they had been properly invested; pre-judgment and post-judgment interest at the maximum statutory rate on all losses sustained from the date of the transactions until the date of the award by the arbitration panel pursuant to Georgia law; all costs of these proceedings, including forum fees, hearing session fees and costs in bringing this action to protect Claimant's rights and interests; reasonable attorneys'

fees in bringing this action under Georgia statutory law and common law as well as under the NYSE and NASD Rules of Fair Practice plus costs and expenses including expert witness fees, in an amount to be determined; punitive damages to be assessed by the arbitration panel; and, that Claimant be granted all other and further relief to which he may be entitled.

Respondent requested an award as follows: that Claimant take nothing by his Statement of Claim; that the case be dismissed and an award entered in his favor and against Claimant; an award of its costs of suit herein; and, for such other and further relief as the arbitrators deemed just and reasonable.

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

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

At the evidentiary hearing, Respondent made a motion for directed verdict. The arbitration panel denied said motion.

### **AWARD**

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

Claimant's claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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	= \$300.00
--------------------------	------------

#### **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 is a party.

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

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

### **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 three-day cancellation fees were 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.

No injunctive relief fees were incurred in this matter.

### **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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: August 3, 2005 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: March 23, 2005 1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: August 9, 2005 2 sessions	
August 10, 2005 2 sessions	
August 11, 2005 2 sessions	

---

Total Forum Fees	= \$8,325.00
------------------	--------------

The Panel has assessed \$4,162.50 of the forum fees to Claimant.

The Panel has assessed \$4,162.50 of the forum fees to Respondent.

### **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 are 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 in this matter.

### FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$4,162.50

---

Total Fees	= \$4,462.50
Less payments	= \$1,425.00

---

Balance Due NASD Dispute Resolution	= \$3,037.50
-------------------------------------	--------------

Respondent is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$4,162.50

---

Total Fees	= \$9,362.50
Less payments	= \$5,200.00

---

Balance Due NASD Dispute Resolution	= \$4,162.50
-------------------------------------	--------------

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

### ARBITRATION PANEL

Fred L. Bryson, Jr., LLB	-	Public Arbitrator, Presiding Chair
Helen E. Huyler, Esq.	-	Public Arbitrator
E. Trice Laird	-	Non-Public Arbitrator

### Concurring Arbitrators' Signatures

\_\_\_\_\_/S/\_\_\_\_\_  
Fred L. Bryson, Jr., LLB  
Public Arbitrator, Presiding Chair

August 15, 2005  
Signature Date

\_\_\_\_\_/S/\_\_\_\_\_  
Helen E. Huyler, Esq.

August 12, 2005  
Signature Date

Public Arbitrator

\_\_\_\_\_/S/\_\_\_\_\_  
E. Trice Laird  
Non-Public Arbitrator

August 13, 2005  
Signature Date

August 17, 2005  
Date of Service (For NASD Dispute Resolution office use only)

arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$4,162.50
<hr/>	
Total Fees	= \$4,462.50
Less payments	= \$1,425.00
<hr/>	
Balance Due NASD Dispute Resolution	= \$3,037.50

Respondent is solely liable for:

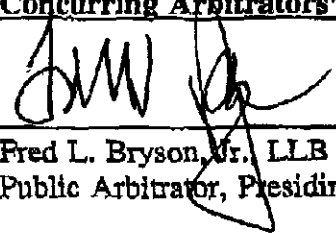
Member Fees	= \$5,200.00
Forum Fees	= \$4,162.50
<hr/>	
Total Fees	= \$9,362.50
Less payments	= \$5,200.00
<hr/>	
Balance Due NASD Dispute Resolution	= \$4,162.50

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

**ARBITRATION PANEL**

Fred L. Bryson, Jr., LLB	-	Public Arbitrator, Presiding Chair
Helen E. Huyler, Esq.	-	Public Arbitrator
E. Trice Laird	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Fred L. Bryson, Jr., LLB  
Public Arbitrator, Presiding Chair

8-15-05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Helen E. Huyler, Esq.  
Public Arbitrator

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

AUG. 12. 2005 1:11PM NASD DISPUTE RESOLUTION

NO. 030 P.5

NASD Dispute Resolution

Arbitration No. 04-07594

Award Page 4

arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

### FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$4,162.50

Total Fees	= \$4,462.50
Less payments	= \$1,425.00

Balance Due NASD Dispute Resolution	= \$3,037.50
-------------------------------------	--------------

Respondent is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$4,162.50

Total Fees	= \$9,362.50
Less payments	= \$5,200.00

Balance Due NASD Dispute Resolution	= \$4,162.50
-------------------------------------	--------------

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

### ARBITRATION PANEL

Fred L. Bryson, Jr., LLB	-	Public Arbitrator, Presiding Chair
Helen E. Huyler, Esq.	-	Public Arbitrator
B. Trice Laird	-	Non-Public Arbitrator

### Concurring Arbitrators' Signatures

Fred L. Bryson, Jr., LLB  
Public Arbitrator, Presiding Chair

Helen E. Huyler, Esq.  
Public Arbitrator

Signature Date

8/12/05  
Signature Date

NASD Dispute Resolution

Arbitration No. 04-07594

Award Page 5

---



E. Trice Laird  
Non-Public Arbitrator

8/13/05  
Signature Date

---

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