

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Faye Hurwich, Individually and as Trustee
of the benefit of the Fay Hurwich Revocable
Trust, under Declaration of Trust dated
November 8, 1991

Case Number: 04-07605

Names of Respondents

Robert Keith Berger
Jonathan Roberts Financial Group, Inc. f/k/a
Alliance Capital Management, Inc.
Southern Capital Securities, Inc.

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Faye Hurwich, Individually and as Trustee of the benefit of the Fay Hurwich Revocable Trust, under Declaration of Trust dated November 8, 1991, hereinafter referred to as "Claimant": Richard H. Levenstein, Esq., Kramer, Sopko & Levenstein, P.A., Stuart, Florida.

For Jonathan Roberts Financial Group, Inc. f/k/a Alliance Capital Management, Inc. hereinafter referred to as "Respondent Jonathan Roberts": Clifford J. Hunt, Esq., Kiefner & Hunt, P.A., Seminole, Florida.

Respondent Robert Keith Berger, hereinafter referred to as "Respondent Berger", did not appear.

Respondent Southern Capital Securities, Inc., hereinafter referred to as "Respondent Southern Capital", did not appear

CASE INFORMATION

Statement of Claim filed on or about: November 1, 2004.

Claimant signed the Uniform Submission Agreement: October 29, 2004.

Motion to Dismiss and Statement of Answer & Affirmative Defenses filed by Respondent Jonathan Roberts, on or about: April 6, 2005.

Respondent Jonathan Roberts did not file an executed Uniform Submission Agreement.
Claimant's Response to Respondent Jonathan Roberts' Motion to Dismiss filed on or about: October 27, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: violations of Section 517.301 of the Florida Statutes; fraud; gross negligence; negligent hiring of Robert Keith Berger; negligent supervision of Robert Keith Berger; negligent retention of Robert Keith Berger; and, breach of fiduciary duty. The causes of action relate to Claimant's investments in Sterling Financial Service of Florida – 1, Inc.; Grand Court Lifestyles, Inc.; and, Sovereign Credit Finance II, Inc.

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

RELIEF REQUESTED

Claimant requested rescission of her investment and/or compensatory damages in the amount of \$200,000.00; punitive damages in the amount of \$200,000.00; pre-judgment interest at the legal rate from the date of purchase; interest at the legal rate from the date of entry of an award; attorneys' fees; and, costs.

Respondent Jonathan Roberts requested that the Panel dismiss the Claims against it; enter an Award in its favor, including a finding of entitlement to attorneys' fees and costs; and, such other and further relief as the Panel deemed necessary and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Jonathan Roberts did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about September 7, 1999, Respondent Southern Capital filed for protection under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Florida. As such, all matters relating to Respondent Southern Capital are stayed and the Panel made no determinations with respect to Respondent Southern Capital. Additionally, at the evidentiary hearings, on or about December 13, 2006, Claimant withdrew, with prejudice, all claims asserted against Respondent Southern Capital.

On or about July 20, 2004, Respondent Berger filed for protection under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Florida. As such, all matters relating to Respondent Berger are stayed and the Panel made no determinations with respect to Respondent Berger. Additionally, at the evidentiary hearings, on or about December 13, 2006, Claimant withdrew, with prejudice, all claims asserted against Respondent Berger.

During the evidentiary hearing, on or about December 13, 2006, the Panel denied Respondent Jonathan Roberts' Motion to Dismiss.

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.

AWARD

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

Claimant's claims are denied and dismissed with prejudice.

Respondent Jonathan Roberts shall pay to Claimant the sum of \$300.00 representing reimbursement of the nonrefundable claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and Claimant and Respondent Jonathan Roberts' requests for attorneys' fees, are denied.

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

Respondent Jonathan Roberts is not presently a member firm of NASD. However, Respondent Jonathan Roberts filed a Statement of Answer and participated in these proceedings. Accordingly, the following fees are assessed to Respondent Jonathan Roberts.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournments 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 incurred in this matter.

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 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 the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: July 6, 2005	1 session
January 12, 2006	1 session
Three (3) Hearing sessions @ \$1,125.00	= \$3,375.00
Hearing Dates: December 13, 2006	2 sessions
December 14, 2006	1 session
Total Forum Fees	= \$5,625.00

The Panel has assessed the total forum fees of \$5,625.00 to Respondent Jonathan Roberts.

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Jonathan Roberts is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$10,825.00

<u>Less payments</u>	= \$	<u>0.00</u>
Balance Due NASD Dispute Resolution	=	\$10,825.00

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

ARBITRATION PANEL

Hugh N. Fryer, Esq.	-	Public Arbitrator, Presiding Chairperson
William J. Callahan, CPA	-	Public Arbitrator
Melanie S. Cherdack, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Hugh N. Fryer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

William J. Callahan, CPA
Public Arbitrator

Signature Date

Melanie S. Cherdack, Esq.
Non-Public Arbitrator

Signature Date

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

<u>Less payments</u>	= \$	<u>0.00</u>
Balance Due NASD Dispute Resolution	=	\$10,825.00

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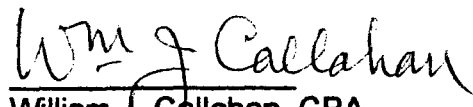
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Public Arbitrator, Presiding Chairperson

Signature Date



William J. Callahan, CPA
Public Arbitrator

12/19/06

Signature Date

Melanie S. Cherdack, Esq.
Non-Public Arbitrator

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Melanie S. Cherdack, Esq.
Non-Public Arbitrator

12-19-04
Signature Date

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