

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant

Keith Vaughn

v.

04-08463

Denver, Colorado

Respondents

Multi-Financial Securities Corporation,  
Sander J. Ressler, David Alan Riggle,  
and Ronald Leslie Struhs

and

Counter-Claimant

Multi-Financial Securities Corporation

v.

Counter-Respondent

Keith Vaughn

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Nature of Dispute: Associated Person v. Member and Associated Persons and Member v.  
Associated Person

**REPRESENTATION OF PARTIES**

Keith Vaughn ("Claimant") was represented by Gary D. Nicholas, Esq., Denver, Colorado until his Notice of Withdrawal on or about February 10, 2005, after which, Claimant appeared pro se.

Multi-Financial Securities Corporation ("Multi-Financial"), Sander J. Ressler ("Ressler"), David Alan Riggle ("Riggle"), and Ronald Leslie Struhs ("Struhs"), hereinafter collectively referred to as "Respondents," were represented by William D. Nelson, Esq., of Rothgerber Johnson & Lyons, LLP, Denver, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about December 10, 2004. The Submission Agreement of Claimant was signed on or about December 10, 2004.

The Statement of Answer was filed jointly by Respondents, Multi-Financial Securities Corporation, Sander J. Ressler, David Alan Riggle, and Ronald Leslie Struhs, on or about February 1, 2005. The Submission Agreement of Respondent, Multi-Financial Securities Corporation, was signed on or about February 3, 2005. The Submission Agreement of Respondent, Sander J. Ressler, was signed on or about April 20, 2005. The Submission Agreement of Respondent, David Alan Riggle, was signed on or about April 19, 2005. The Submission Agreement of Respondent, Ronald Leslie Struhs, was signed on or about April 20, 2005.

A Counterclaim was filed by Respondent, Multi-Financial Securities Corporation, on or about February 1, 2005.

A Motion to Dismiss was filed by Respondents, Sander J. Ressler, David Alan Riggle, and Ronald Leslie Struhs, on or about February 1, 2005. Claimant filed a Response to the Motion to Dismiss and Counterclaim on or about April 26, 2005. Respondents filed a Supplement to their Motion to Dismiss on or about May 6, 2005.

### **CASE SUMMARY**

Claimant asserted causes of action including the following: wrongful termination, negligence, failure to supervise, misrepresentations, defamation and libel or slander on Form U-5. Claimant alleged that he was terminated from Multi-Financial Securities Corporation without cause and without a proper investigation relating to an inquiry from a former customer as to his administration as Trustee for the customer's Testamentary Trust ("the Trust"). Claimant alleged that his business relationship, as Trustee for the Trust, was properly disclosed to Respondents and at no time did they inform him that this outside activity was improper and not covered by the Respondents' insurance policy. Claimant further alleged that Respondents defamed him by filing inaccurate information regarding Claimant's dismissal on his Form U-5 and those misstatements, according to Claimant, have damaged his ability to remain in the securities industry.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimant's claims failed to state a claim upon which relief can be granted; Claimant's claims are barred because Claimant failed to mitigate his damages, if any; Claimant's claims are barred by Claimant's conduct constituting waiver, estoppel and laches; Claimant's claims are barred by the doctrine of unclean hands; Claimant's tort claim is barred by the economic loss doctrine; and Claimant's claims are barred, or reduced, by the comparative or contributory negligence of Claimant.

Multi-Financial asserted a Counterclaim for a breach of contract. The cause of action related to the Multi-Financial's allegation that Claimant was in breach of the Associated Investment Advisor Representative Agreement, dated November 14, 1997. Multi-Financial stated that upon Claimant's termination, it was forced to refund Claimant's customers a portion of the quarterly advisory fee associated with their Multi-Vest Accounts.

### **RELIEF REQUESTED**

Claimant requested an award of \$500,000 in compensatory damages, plus \$1,000,000 in punitive damages, interest, costs and any other relief the panel deemed just and proper. In addition, Claimant requested the panel recommend an amendment to his Form U-5 that would reflect that he "voluntarily resigned" from Multi-Financial.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

Multi-Financial requested in its Counterclaim, damages in the amount of \$10,119.28 in compensatory damages, plus interest, costs, attorneys' fees and any other relief the panel deemed just and equitable.

Claimant requested that the claims asserted against him be denied in their entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

On or about June 9, 2005, the panel entered an Order denying Respondents' 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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims, each and all, are denied and dismissed with prejudice;
2. Counter-Respondent, Keith Vaughn, is liable for and shall pay to Counter-Claimant, Multi-Financial Securities Corporation, the sum of Five Thousand Dollars and No Cents (\$5,000.00) in compensatory damages;
3. Counter-Respondent, Keith Vaughn, is liable for and shall pay to Counter-Claimant, Multi-Financial Securities Corporation, post-award interest on the above-stated sum, at the Colorado Statutory rate, to begin to accrue thirty calendar days after the date of service of this Award through and including the date this Award is paid in full;

4. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, are denied with prejudice; and
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500
Counterclaim filing fee	= \$ 750

#### **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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Multi-Financial Securities Corporation.

Member surcharge	= \$ 2,800
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 5,000

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing session with Panel x \$ 1,200	= \$ 2,400
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Pre-hearing conferences:	04/18/2005	1 session
	06/09/2005	1 session

Two (2) Hearing sessions with Panel x \$ 1,200	= \$ 2,400
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Hearing Dates:	08/08/2005	2 sessions
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Total Forum Fees = \$ 4,800

The Arbitration Panel has assessed \$ 2,400 of the forum fees to Keith Vaughn.

The Arbitration Panel has assessed \$ 2,400 of the forum fees jointly and severally to Multi-Financial Securities Corporation, Sander J. Ressler, David Alan Riggle, and Ronald Leslie Struhs.

**FEE SUMMARY**

Claimant, Keith Vaughn, is liable for:

Initial Filing Fee	= \$ 500
<u>Forum Fees</u>	= \$ 2,400
Total Fees	= \$ 2,900
<u>Less payments</u>	= \$ 1,700
Balance Due NASD Dispute Resolution	= \$ 1,200

Respondent, Multi-Financial Securities Corporation, is liable for:

Counterclaim Filing Fee	= \$ 750
<u>Member Fees</u>	= \$ 8,550
Total Fees	= \$ 9,300
<u>Less payments</u>	= \$ 9,300
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, Multi-Financial Securities Corporation, Sander J. Ressler, David Alan Riggle, and Ronald Leslie Struhs, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,400
Total Fees	= \$ 2,400
<u>Less payments</u>	= \$ 5,450
Balance Refunded By NASD Dispute Resolution	= \$ 3,050

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

**ARBITRATION PANEL**

**Marilyn R. Lewis, Esq. - Public Arbitrator, Presiding Chair**  
**David Butler, Esq. - Public Arbitrator**  
**Joseph M. Costello - Non-Public Arbitrator**

**Concurring Arbitrators:**

Marilyn R. Lewis  
Marilyn R. Lewis, Esq.  
Public Arbitrator, Presiding Chair

August 11, 2005  
Signature Date

**David Butler, Esq.**  
**Public Arbitrator**

**Signature Date**

**Joseph M. Costello**  
**Non-Public Arbitrator**

**Signature Date**

8/11/05  
Date of Service (NASD use only)

**ARBITRATION PANEL**

Marilyn R. Lewis, Esq. - Public Arbitrator, Presiding Chair  
David Butler, Esq. - Public Arbitrator  
Joseph M. Costello - Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

David Butler  
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Public Arbitrator

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Joseph M. Costello  
Non-Public Arbitrator

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David Butler, Esq. - Public Arbitrator  
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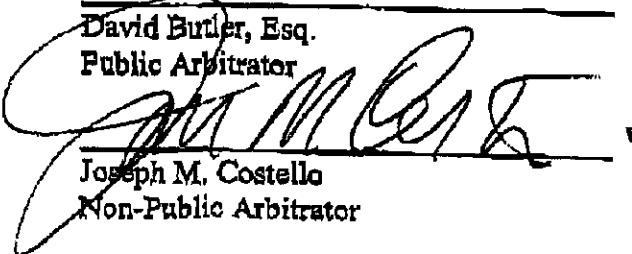
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\_\_\_\_\_  
Marilyn R. Lewis, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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David Butler, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Joseph M. Costello  
Non-Public Arbitrator

8/11/08  
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Signature Date

8/11/05  
\_\_\_\_\_  
Date of Service (NASD use only)