

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Tony L. Bevin, Claimant v. Guardian Investor Services LLC, Park Avenue Securities LLC, Guardian Life Insurance Co. of America, Georgia L. Gaidula, Timothy A. Kime, Maria L. Burley, Michael D. Fleming, Stephen J. Buell, Warren P. Hoppe, Neil A. Willner, Henry V. Terrell, and Peter M. Sinibaldi, Respondents

Case Number: 05-00845

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person v. Members, Non-Member, and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Tony L. Bevin
In Propria Persona
Poway, California

For Respondents:

Michael Bell, Esq.
Park Avenue Securities
New York, New York

CASE INFORMATION

Statement of Claim filed: February 10, 2005

Claimant's Uniform Submission Agreement signed: February 9, 2005

Statement of Answer filed by Respondent Maria L. Burley: March 8, 2005

Statement of Answer filed by Respondent Timothy A. Kime: April 13, 2005

Joint Statement of Answer filed by Respondents Guardian Investor Services LLC, Park Avenue Securities LLC, Guardian Life Insurance Co. of America, Georgia L. Gaidula, Michael D. Fleming, Stephen J. Buell, Warren P. Hoppe, Neil A. Willner, Henry V. Terrell, and Peter M. Sinibaldi: April 19, 2005

Amended Joint Statement of Answer filed by all Respondents: June 14, 2005

Motion to Dismiss filed by all Respondents: June 14, 2005

Respondent Guardian Investor Services LLC's Uniform Submission Agreement signed: April 14, 2005

Respondent Park Avenue Securities LLC's Uniform Submission Agreement signed: April 19, 2005

Respondent Georgia L. Gaidula's Uniform Submission Agreement signed: April 11, 2005

Respondent Timothy A. Kime's Uniform Submission Agreement signed: April 12, 2005

Respondent Maria L. Burley's Uniform Submission Agreement signed: March 7, 2005

Respondent Stephen J. Buell's Uniform Submission Agreement signed: April 15, 2005

Respondent Warren P. Hoppe's Uniform Submission Agreement signed: April 14, 2005

Respondent Neil A. Willner's Uniform Submission Agreement signed: April 14, 2005

Respondent Henry V. Terrell's Uniform Submission Agreement signed: April 14, 2005

Respondent Peter M. Sinibaldi's Uniform Submission Agreement signed: April 12, 2005

CASE SUMMARY

Claimant alleged breach of contract, failure to pay commissions, wrongful termination, defamation, and infliction of emotional distress.

Both Respondents' Initial and Amended Statements of Answer denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$6,000.00 in compensatory damages, reimbursement of costs, \$1,000,000.00 in punitive damages, clearance of his Form U-5, and reappointment to this position at Respondent Park Avenue Securities LLC.

Respondent Maria L. Burley and Timothy A. Kime's Initial Statement of Answers each requested dismissal of Claimant's Statement of Claim in its entirety.

Respondents Guardian Investor Services LLC, Park Avenue Securities LLC, Guardian Life Insurance Co. of America, Georgia L. Gaidula, Michael D. Fleming, Stephen J. Buell, Warren P. Hoppe, Neil A. Willner, Henry V. Terrell, and Peter M. Sinibaldi's Initial Statement of Answer and Respondents' Amended Statement of Answer each requested dismissal of Claimant's Statement of Claim in its entirety and reimbursement of costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Michael D. Fleming did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code is bound by the determination of the Panel on all issues submitted.

On April 21, 2005, Claimant Tony L. Bevin signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators. Pursuant to the Code of Arbitration Procedure IM-10100, the waiver[s] of the Claimant[s] shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On April 14, 2005, Respondents moved the Panel to dismiss the Statement of Claim. Claimant filed an opposition to the motion on August 26, 2005. A telephonic pre-hearing conference was held October 18, 2005, attended by Claimant Tony L. Bevin, Gordon F. Wylie, Esq. on behalf of the Respondents, and the Panel. After due deliberation, the Panel granted the motion as to Respondent Guardian Life Insurance Co. of America and denied the motion as to the remaining Respondents.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Based upon the defamatory nature of the information, the Panel recommends the following expungement of and amendment to Claimant Tony L. Bevin's Form U-5, filed April 3, 2003 by Park Avenue Securities LLC (CRD #46173):
 - a) Under Section 3 entitled "Full Termination—Reason for Termination," change reason for termination from "other" to "voluntary;"
 - b) Under Section 3 entitled "Full Termination—Termination Comment," expunge the following language: "Failed to submit product sponsor paperwork through his broker-dealer for supervisory review despite specific instructions to do so."
- 2) Respondent Park Avenue Securities LLC is liable to and shall pay Claimant Tony L. Bevin the sum of \$500.00 as reimbursement for filing costs.
- 3) Except as set forth in paragraph 3, the parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firms Guardian Investor Services LLC and Park Avenue Securities LLC are parties and the following fees are assessed to each:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$5,000.00
Total Member Fees	= \$8,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences:	
June 20, 2005	1 session
October 18, 2005	1 session

Two (2) Hearing sessions @ \$1,200.00/session	= \$2,400.00
Hearings:	
March 7, 2006	2 session
Total Forum Fees	= \$4,800.00

The Panel assessed the entire balance of the forum fees, in the amount of \$4,800.00 to Respondent Park Avenue Securities LLC.

Fee Summary

1. Claimant Tony L. Bevin is charged with the following fees and costs:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
Funds applied to NASD Mediation	= \$ 250.00
<u>Less payments</u>	= \$(1,700.00)
Refund Due from NASD Dispute Resolution	= \$ (950.00)

2. Respondent Guardian Investor Services LLC is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	= \$(7,550.00)
Balance Due NASD Dispute Resolution	= \$ 1,000.00

3. Respondent Park Avenue Securities LLC is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 4,800.00
Total Fees	= \$13,350.00
<u>Less payments</u>	= \$(7,550.00)
Balance Due NASD Dispute Resolution	= \$ 5,800.00

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

ARBITRATION PANEL

<i>Stephen M. Biersmith, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Douglas L. Stenzel, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Basil Lewis</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Stephen M. Biersmith, Esq.
Chair, Public Arbitrator

3/24/06
Signature Date

Douglas L. Stenzel, Esq.
Public Arbitrator

Signature Date

Basil Lewis
Non-Public Arbitrator

Signature Date

March 20, 2006
Date of Service

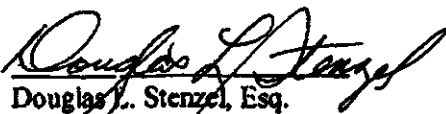
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<i>Stephen M. Biersmith, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Douglas L. Stenzel, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Basil Lewis</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Stephen M. Biersmith, Esq.
Chair, Public Arbitrator

Signature Date


Douglas L. Stenzel, Esq.
Public Arbitrator


3/16/06
Signature Date

Basil Lewis
Non-Public Arbitrator

Signature Date

March 20, 2006
Date of Service

ARBITRATION PANEL

<i>Stephen M. Biersmith, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Douglas L. Stenzel, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Basil Lewis</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Stephen M. Biersmith, Esq.
Chair, Public Arbitrator

Signature Date

Douglas L. Stenzel, Esq.
Public Arbitrator

Signature Date



Basil Lewis
Non-Public Arbitrator

3/15/2006
Signature Date

March 20, 2006
Date of Service