

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Robin Richards and
Kenneth Wright

Case Number: 05-00977

Name of the Respondent

Capital West Securities, Inc.

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Public Customers v. Member Firm

REPRESENTATION OF PARTIES

Claimants Robin Richards ("Richards") and Kenneth Wright ("Wright"), hereinafter collectively referred to as "Claimants": Richard Lewins, Esq. and Chris Claassen, Esq. of the firm of Burg Simpson Eldredge Hersh & Jardine, P.C., located in Dallas, Texas.

Respondent Capital West Securities, Inc., hereinafter referred to as "Respondent": Joe M. Hampton, Esq. of the firm of Ryan, Whaley & Coldiron, located in Oklahoma City, Oklahoma.

CASE INFORMATION

Statement of Claim filed on: February 24, 2005.

Both Claimants signed the Uniform Submission Agreement: February 22, 2005.

Statement of Answer filed by Respondent on: May 6, 2005.

Respondent signed the Uniform Submission Agreement: May 2, 2005.

Respondent's Pre-Hearing Brief filed on: October 21, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; improper use of margin; failure to supervise and *respondeat superior*; negligence/breach of industry standards and NASD and NYSE rules; and breach of contract. These causes of action related to Respondent investing Claimants in individual stocks and a high-tech mutual fund, as well as the use of margin.

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

1. Claimants' Statement of Claim fails to state a claim upon which relief can be granted;
2. Any losses incurred by Claimants resulted from market price fluctuations that were beyond the control and responsibility of Respondent;
3. Claimants knowingly, willingly, and voluntarily assumed the risk of the alleged harm of which they now complain;
4. Claimants ratified the acts and transactions complained of and upon which recovery is sought, and Claimants have waived and are estopped from pursuing recovery based on the complained of acts and transactions;
5. Claimants cannot demonstrate that Respondent acted with the requisite scienter;
6. In light of Claimants' financial condition, investment objectives, experience and communication, Respondent had "reasonable grounds" for believing that the securities recommendations were suitable; and
7. There is no independent cause of action for violation of NASD Rules.

RELIEF REQUESTED

Claimants Wright and Richards requested:

Compensatory Damages (Wright)	\$175,000.00
Compensatory Damages (Richards)	\$ 50,000.00
Interest	Pre-judgment and post-judgment at the maximum rate allowed by law
Attorneys' Fees	Reasonable attorneys' fees for breach of contract
Other Costs	Including expert witness fees
Other Monetary/Non-Monetary Relief if any:	In an amount that the Panel deems just and equitable.

Respondent requested:

1. That Claimants take nothing by their claims and that this matter be dismissed in its entirety;
2. For costs incurred by Respondent, including arbitrators' fees and expenses; and,
3. For such other and further relief as the Panel deems just and appropriate under these circumstances.

AWARD

After considering the pleadings, the pre-hearing brief, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated herein; and,

3. Any and all relief not specifically addressed herein is 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

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. Accordingly, Capital West Securities, Inc. is a party and the following member fees are assessed:

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: None.

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 Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: July 8, 2005 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$ 4,500.00
Hearing Dates: November 1, 2005 2 sessions	
November 2, 2005 2 sessions	
Total Forum Fees	= \$ 5,625.00

The Panel has assessed \$2,812.50 of the forum fees, jointly and severally, to Claimants Robin Richards and Kenneth Wright. The Panel has assessed the remaining \$2,812.50 of the forum fees to Respondent Capital West Securities, Inc.

EEE SUMMARY

Claimants Robin Richards and Kenneth Wright are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
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Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

Respondent Capital West Securities, Inc. is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 8,012.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

ARBITRATION PANEL

William M. Lamoreaux - Public Arbitrator, Presiding Chairperson
 John K. Boyce, III, Esq. - Public Arbitrator
 Karen Jean Zvoncek - Non-Public Arbitrator

Co-arbitrating Arbitrators' Signatures

W. M. Lamoreaux

William M. Lamoreaux
 Public Arbitrator, Presiding Chairperson

11/4/05

Signature Date

John K. Boyce, III, Esq.
 Public Arbitrator

Signature Date

Karen Jean Zvoncek
 Non-Public Arbitrator

Signature Date

11/14/05 *KJM*
 Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

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John K. Boyce, III, Esq - Public Arbitrator

Karen Jean Zvonecek - Non-Public Arbitrator

Concurring Arbitrators' Signatures

William M. Lamoreaux
Public Arbitrator, Presiding Chairperson

Signature Date
John K. Boyce, III, Esq.
Public Arbitrator
Signature Date

Karen Jean Zvonecek
Non-Public Arbitrator

Signature Date
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William M. Lamoreaux
Public Arbitrator, Presiding Chairperson

Signature Date

John K. Boyce, III, Esq.
Public Arbitrator

Signature Date



Karen Jean Zvonecek
Non-Public Arbitrator

Nov 2, 2005
Signature Date

11/14/05 
Date of Service. (For NASD Dispute Resolution office use only)