

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Sue W. Westerman

Case Number: 05-01595

Names of the Respondents  
Hartford Securities Distribution Company, Inc.  
World Group Securities, Inc.  
Cameron Noorany  
Linsco/Private Ledger Corp.  
Daniel T. Dubois  
Royal Alliance Associates, Inc.  
Sentra Securities Corp.  
Securities America, Inc.  
Andrew D. Westhem  
Richard A. Zak  
Western Capital Financial Group

Hearing Site: New Orleans, Louisiana

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

**REPRESENTATION OF PARTIES**

For Sue W. Westerman, hereinafter referred to as "Claimant": Lee Bowie, Esq.,  
Davidson Bowie & Sims, Jackson, Mississippi.

For Hartford Securities Distribution Company, Inc. ("Hartford"): Pamela M. Bell, Esq.,  
Akin Gump Strauss Hauer & Feld, L.L.P., San Antonio, Texas.

For World Group Securities, Inc. ("World Group"): Robert G. Brunton, Counsel, World  
Group Securities, Inc., Duluth, Georgia.

For Linsco/Private Ledger Corp ("LPL") and Cameron Noorany ("Noorany"): David J.  
Freniere, Esq., Counsel, Linsco/Private Ledger Corp., Boston, Massachusetts.

Daniel T. Dubois appeared pro se.

For Royal Alliance Associates, Inc. ("Royal"): Greg Curley, Esq., Counsel, Royal  
Alliance Associates, Inc., New York, New York.

For Sentra Securities Corp. ("Sentra"): Sarah J. Kreisman, Esq., Counsel, Sentra  
Securities Corp., Phoenix, Arizona.

Securities America, Inc. ("SAI"): George D. Fagan, Esq., Leake & Anderson, L.L.P.  
New Orleans, Louisiana.

For Andrew D. Westhem ("Westhem"): Ernest Slome, Esq., Lewis Brisbois Bisgaard & Smith LLP, San Diego, California.

For Richard A. Zak ("Zak"): Garry B. Zak, Esq., Chicago, Illinois.

For Western Capital Financial Group ("Western"): Christopher Aguilar, Esq., Counsel, Western Capital Financial Group, Merriman, Curhan, Ford & Co., San Francisco, California.

### **CASE INFORMATION**

Statement of Claim filed on or about: March 28, 2005.

Claimant signed the Uniform Submission Agreement on or about: March 10, 2005.

Respondent Hartford's Motion to Dismiss and Answer filed on or about: July 11, 2005.

Respondent Hartford signed the Uniform Submission Agreement on: June 30, 2005.

Respondents LPL and Noorany's Motion to Dismiss All Claims As Ineligible and Motion for Expungement filed on or about: July 18, 2005.

Respondents LPL and Noorany did not file Statements of Answer.

Respondent LPL signed the Uniform Submission Agreement on: June 6, 2005.

Respondent Noorany signed the Uniform Submission Agreement on: July 14, 2005.

Respondent Dubois' Request for Removal and Statement of Response filed on or about: June 30, 2005.

Respondent Dubois signed the Uniform Submission Agreement on: June 30, 2005.

Respondents Royal and Sentra's Joint Answer and Motion to Dismiss filed on or about: July 20, 2005.

Respondent Royal signed the Uniform Submission Agreement on: July 20, 2005.

Respondent Sentra signed the Uniform Submission Agreement on: July 20, 2005.

Respondent SAI's Response to Statement of Claim and Affirmative Defenses filed on or about: July 1, 2005.

Respondent SAI signed the Uniform Submission Agreement on: June 3, 2005.

Respondent Westhem's Statement of Answer filed on or about: June 30, 2005.

Respondent Westhem signed the Uniform Submission Agreement on: June 30, 2005.

Respondent Zak's Statement of Answer, Motion to Dismiss and Request for Order of Expungement filed on or about: August 18, 2005.

Respondent Zak signed the Uniform Submission Agreement on: August 14, 2005.

Respondent Western's Answer and Cross Claim in Response to the Statement of Claim filed on or about: July 6, 2005.

Respondent Western signed the Uniform Submission Agreement on: June 30, 2005.

Respondents Noorany, Westhem, Zak and Dubois did not file Statements of Answer to the Cross Claim.

Respondent World Group did not submit an executed Uniform Submission Agreement and did not file a Statement of Answer.

Claimant's Response to Respondents Zak, LPL, Noorany, Sentra and Royal's Motions to Dismiss filed on or about: March 7, 2006.

Respondent Sentra's Reply to Claimant's Response to Respondents Zak, LPL, Noorany, Sentra and Royal's Motion to Dismiss filed on or about: March 16, 2006.

Respondent Noorany's Reply to Claimant's Response to Respondents Zak, LPL, Noorany, Sentra and Royal's Motion to Dismiss filed on or about: March 17, 2006.

### **CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) gross negligence; 4) fraud; and 5) unsuitability. The causes of action relate to Claimant's investments in, including but not limited to, various variable annuities.

Respondents Hartford, Noorany, LPL, Dubois, Royal, Sentra, SAI, Westhem, Zak and Western denied the claims in the Statement of Claim and asserted various affirmative defenses in their Answers and Motions to Dismiss.

Respondent Western Financial asserted the cause of action of equitable indemnification in its Cross Claim against Respondents Noorany, Westhem, Zak and Dubois.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory and actual damages in an amount exceeding \$327,000.00; 2) punitive damages; 3) costs; 4) attorneys' fees; and 5) such other relief as deemed just.

Respondent Hartford requested that: 1) all claims be dismissed; 2) Claimant take nothing and that judgment be entered in its favor; 3) it be awarded costs, expenses and attorneys' fees; and, 4) the Panel grant such other relief as it deemed just.

Respondents LPL and Noorany requested: 1) dismissal of the Statement of Claim, with prejudice; 2) reasonable attorneys' fees; 3) expungement of this matter from Noorany's NASD Central Registration Depository ("CRD") records; and, 4) other relief deemed necessary or appropriate.

Respondent Dubois requested immediate dismissal as a respondent in this matter.

Respondents Royal and Sentra requested that the claims be dismissed, with prejudice, and without requirement of defense or attendance at the final arbitration hearing.

Respondent SAI requested: 1) that the claims be dismissed, with prejudice; 2) an award of damages or equitable or other relief; 3) costs; 4) interest; and, 5) other relief allowed by any applicable law.

Respondent Westhem did not delineate a specific relief request in his Answer. Respondent Zak requested: 1) dismissal of all claims, with prejudice; 2) judgment in favor of Respondent Zak; 3) costs; 4) attorneys' fees; 5) expungement of all references to this matter from Respondent Zak's CRD records; and, 6) all other just and proper relief.

Respondent Western requested in its Statement of Answer: 1) that Claimant take nothing by reason of the complaint; 2) the claim be dismissed in its entirety, with prejudice; 3) an award against Claimant be entered; 4) that costs and attorneys' fees be awarded; and 5) such further relief be awarded.

Respondent Western requested in its Cross Claim against Respondents Noorany, Westhem, Zak and Dubois that they be held jointly and severally liable for any and all damages awarded against Respondent Western.

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

Respondent World Group 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 is bound by the determination of the Panel on all issues submitted.

Claimant submitted the following dismissals of Respondents: World Group on June 2, 2005; Hartford on November 11, 2005; Westhem on December 16, 2005; LPL and Noorany on January 5, 2006; Royal and Sentra on March 28, 2006; and SAI, DuBois and Zak on April 24, 2006. On October 30, 2006, Claimant dismissed all Respondents, with prejudice. On November 10, 2006, Western Financial dismissed its Cross Claim, with prejudice.

On or about April 24, 2006, the Panel issued an order denying the Motions to Dismiss filed by Respondents Zak, LPL and Noorany.

On or about October 10, 2006, a Joint Motion to Enter a Stipulated Award including a request for expungement of the CRD record of Respondent Noorany was submitted. On or about November 29, 2006, the Panel issued an order requesting additional information from the parties regarding the request for expungement. On or about December 15, 2006, the parties submitted additional information to the Panel. On or about January 5, 2007, the Panel issued an order granting the Motion to Enter a Stipulated Award. Thereafter, the parties submitted a Stipulated Award to the Panel for its consideration and requested that it be entered.

The Panel has been informed that Claimant and Respondent Noorany have agreed to resolve this matter. However, Claimant and Respondent Noorany jointly ask the Panel to make a specific finding that there were no sales practice violations or wrongdoing or other liability attributable to Respondent Noorany and enter a Stipulated Award requiring the expungement of all reference to the above-captioned arbitration from all registration records of Respondent Noorany, maintained by CRD, with the understanding that, pursuant to NASD Notice to Members 99-09 and 04-16, Respondent Noorany must

obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **AWARD**

The Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims having been withdrawn, the same are hereby dismissed, with prejudice, and without costs, except such costs as specified below.
2. Pursuant to Rule 2130, the Panel has made the following affirmative finds of fact:

Respondent Noorany was not employed at the firm at which one of the two disputed transactions took place, and he was not the broker of record or involved with the second transaction at issue, therefore, *the information, claim, or allegation is factually impossible or clearly erroneous* and Respondent Noorany *was not involved in the alleged investment-related sales practice violation*.

3. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Noorany's registration records maintained by the CRD, with the understanding that, pursuant to NASD Notice to Members 04-16, Respondent Noorany must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. That any relief requested by Claimant, including punitive damages, costs, and attorneys' fees, are hereby denied and dismissed with prejudice.

### **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
Cross Claim filing fee	= \$1,000.00

#### **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 firms are: Royal; LPL; SAI; Sentra; Western; World Group; and, Hartford.

For Respondents Royal, LPL, SAI, Sentra and Western:

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

For Respondent Hartford:

Member surcharge	= \$1,700.00
<u>Pre-hearing process fee</u>	<u>= \$ 750.00</u>
Total Member fees	= \$2,450.00

For Respondent World Group:

<u>Member surcharge</u>	<u>= \$1,700.00</u>
Total Member fees	= \$1,700.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

### **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:

There were no three-day cancellation fees 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.

There were no injunctive relief fees assessed during these proceedings.

### **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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: December 13, 2005 1 session	
April 20, 2006 1 session	

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Total Forum Fees	= \$2,250.00
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The Panel has waived the assessment of all forum fees.

**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.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for:

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

Respondent Hartford is solely liable for:

<u>Member Fees</u>	= \$2,450.00
<u>Total Fees</u>	= \$2,450.00
<u>Less payments</u>	= \$2,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent World Group is solely liable for:

<u>Member Fees</u>	= \$1,700.00
<u>Total Fees</u>	= \$1,700.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,700.00

Respondent LPL is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Royal is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Sentra is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent SAI is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Western is solely liable for:

Cross Claim filing fees	= \$1,000.00
<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$6,200.00
<u>Less payments</u>	= \$6,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Louis L. Plotkin, Esq.	-	Public Arbitrator, Presiding Chairperson
James Kee Irvin	-	Public Arbitrator
John J. Meyer	-	Non- Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
\_\_\_\_\_  
Louis L. Plotkin, Esq.  
Public Arbitrator, Presiding Chairperson

January 12, 2007  
Signature Date

/s/  
\_\_\_\_\_  
James Kee Irvin  
Public Arbitrator

January 12, 2007  
Signature Date

/s/  
\_\_\_\_\_  
John J. Meyer  
Non-Public Arbitrator

January 11, 2007  
Signature Date

January 12, 2007  
Date of Service (For NASD Dispute Resolution use only)



Respondent SAI is solely liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
<u>Total Fees</u>	<u>= \$5,200.00</u>
<u>Less payments</u>	<u>= \$5,200.00</u>
<u>Balance Due NASD Dispute Resolution</u>	<u>= \$ 0.00</u>

Respondent Western is solely liable for:


<u>Cross Claim filing fees</u>	<u>= \$1,000.00</u>
<u>Member Fees</u>	<u>= \$5,200.00</u>
<u>Total Fees</u>	<u>= \$6,200.00</u>
<u>Less payments</u>	<u>= \$6,200.00</u>
<u>Balance Due NASD Dispute Resolution</u>	<u>= \$ 0.00</u>

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**ARBITRATION PANEL**

Louis L. Plotkin, Esq.	-	Public Arbitrator, Presiding Chairperson
James Kee Irvin	-	Public Arbitrator
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**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Louis L. Plotkin, Esq.  
Public Arbitrator, Presiding Chairperson

1/12/07  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
James Kee Irvin  
Public Arbitrator

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

\_\_\_\_\_  
John J. Meyer  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

Respondent SAI is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Western is solely liable for:

<u>Cross Claim filing fees</u>	= \$1,000.00
<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$6,200.00
<u>Less payments</u>	= \$6,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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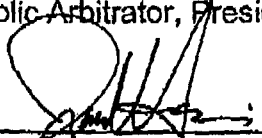
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Louis L. Plotkin, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
James Kee Irvin  
Public Arbitrator

1/12/06  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John J. Meyer  
Non-Public Arbitrator

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Signature Date

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NASD Dispute Resolution  
Arbitration No. 05-01595  
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Respondent SAI is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Western is solely liable for:

Cross Claim filing fees	= \$1,000.00
Member Fees	= \$5,200.00
Total Fees	= \$6,200.00
Less payments	= \$6,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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John J. Meyer	-	Non- Public Arbitrator

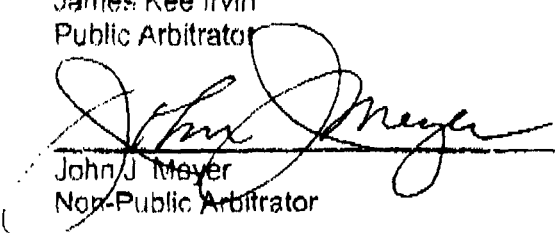
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Signature Date

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Public Arbitrator

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Signature Date

  
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John J. Meyer  
Non-Public Arbitrator

1/11/07  
Signature Date

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Date of Service (For NASD Dispute Resolution use only)