

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Donald W. O'Brien (Claimant) vs. Purshe Kaplan Sterling Investments, Scott Thomas Valente, Peter John Sheehan, and Peter Purcell (Respondents)

Case Number: 05-01834

Hearing Site: Albany, New York

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

REPRESENTATION OF PARTIES

Claimant Donald W. O'Brien hereinafter referred to as "Claimant": Timothy J. O'Connor, Esq., Law Offices of Timothy J. O'Connor, Esq., Albany, New York.

Respondents Purshe Kaplan Sterling Investments ("Purshe Kaplan"), Scott Thomas Valente ("Valente"), Peter John Sheehan ("Sheehan"), and Peter Purcell ("Purcell") hereinafter collectively referred to as "Respondents": David M. Purcell, Esq., Purshe Kaplan Sterling Investments, Albany, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2005.

Claimant signed the Uniform Submission Agreement: March 21, 2005.

Statement of Answer filed by Respondents on or about: May 31, 2005.

Purshe Kaplan signed the Uniform Submission Agreement: May 31, 2005.

Valente signed the Uniform Submission Agreement: May 31, 2005.

Sheehan signed the Uniform Submission Agreement: May 31, 2005.

Purcell signed the Uniform Submission Agreement: May 31, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, breach of fiduciary duty, securities brokerage malpractice, conversion, fraudulent concealment, negligence, negligent misrepresentation, common law fraud, unsuitability, unauthorized trading, churning, and control person liability. The causes of action relate to various technology stocks, mutual funds, and other various common stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00 plus interest,

tax penalties and delinquencies in the amount of \$100,000.00, punitive damages in the amount of \$250,000.00, filing fees, forum fees, expert witness fees, costs, disbursements, attorneys' fees, and any other further relief which the Panel deems just and appropriate under the circumstances.

Respondents requested dismissal of the Statement of Claim in its entirety with prejudice, costs, disbursements, and such other and further relief and the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

1. Respondents are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$299,545.00 plus interest at the rate of 3.6% per annum beginning from January 1, 2005 until June 30, 2006.
2. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$	375.00
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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, Purshe Kaplan Sterling Investments is a party.

Member surcharge	= \$	2,250.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	4,000.00

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 arbitrators, including a pre-hearing conference with the

arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Pre-hearing sessions with single arbitrator @ \$450.00 = \$ 1,800.00

Pre-hearing conferences: February 1, 2006 1 session
March 15, 2006 1 session
April 5, 2006 1 session
May 2, 2006 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: September 20, 2005 1 session
November 28, 2005 1 session

Sixteen (16) Hearing sessions with Panel @ \$1,200.00 = \$ 19,200.00

Hearing dates: May 15, 2006 2 sessions
May 16, 2006 2 sessions
May 23, 2006 2 sessions
May 24, 2006 2 sessions
May 25, 2006 2 sessions
June 14, 2006 2 sessions
June 15, 2006 2 sessions
June 16, 2006 2 sessions

Total Forum Fees = \$ 23,400.00

1. The Panel has assessed \$9,360.00 of the forum fees to Claimant.
2. The Panel has assessed \$14,040.00 of the forum fees to Respondents, jointly and severally.

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.

1. Respondents, jointly and severally, requested hearing tapes = \$ 270.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$	375.00
Forum Fees	= \$	9,360.00
Total Fees	= \$	9,735.00
Less payments	= \$	1,575.00
Balance Due NASD Dispute Resolution	= \$	8,160.00

2. Respondent Purshe Kaplan is solely liable for:

Member Fees	= \$	7,000.00
Total Fees	= \$	7,000.00
Less payments	= \$	7,000.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees = \$ 14,040.00

Administrative Costs = \$ 270.00

Total Fees = \$ 14,310.00

Less payments = \$ 270.00

Balance Due NASD Dispute Resolution = \$ 14,040.00

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

ARBITRATION PANEL

Ira A. Auerbach	-	Public Arbitrator, Presiding Chairperson
Michael A. Orticelle	-	Public Arbitrator
C. Anthony Bell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Ira A. Auerbach
Public Arbitrator, Presiding Chairperson

6/22/06
Signature Date

Michael A. Orticelle
Public Arbitrator

Signature Date

C. Anthony Bell
Non-Public Arbitrator

Signature Date

June 22, 2006

Date of Service (For NASD Dispute Resolution use only)

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06/20/06

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Non-Public Arbitrator

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