

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Deanna Johnson, Clint A. Johnson, Karen L. Pushkin, Ralph V. Johnson, Glenda F. Johnson f/k/a Glenda Alsip and The Alsip Family Trust, Glenda Johnson Trustee, Claimants v. SunAmerica Securities, Inc. and Edwin J. Torres, Respondents

Case Number: 05-02167

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

Richard A. Nervig, Esq.
Richard A. Nervig, P.C.
Fallbrook, California

For Respondent SunAmerica Securities, Inc.:

Louis H. Castoria, Esq.
Stephen L. Nelson, Esq.
Bernard Gehlhar, Esq.
Wilson, Elser, Moskowitz,
Edelman & Dicker LLP
San Francisco, California

For Respondent Edwin J. Torres:

Edwin J. Torres
San Francisco, California

CASE INFORMATION

Statement of Claim filed: April 22, 2005

Claimants' Response and Objections to Respondent SAS's Motion to Dismiss Non-Customers filed: March 20, 2006

Claimants' Hearing Brief filed: December 1, 2006

Claimant Deanna Johnson's Uniform Submission Agreement signed: March 31, 2005

Claimant Clint A. Johnson's Uniform Submission Agreement filed: April 22, 2005

Claimant Karen L. Pushkin's Uniform Submission Agreement filed: April 22, 2005

Claimant Ralph V. Johnson's Uniform Submission Agreement filed: June 21, 2005

Claimants Glenda F. Johnson f/k/a Glenda Alsip and The Alsip Family Trust's Uniform Submission Agreement filed: June 21, 2005

Statement of Answer filed by Respondent SunAmerica Securities, Inc. ("SAS"): August 10, 2005

Respondent SAS's Motion to Dismiss Non-Customers filed: February 21, 2006

Respondent SAS's Reply to Claimants' Response to Motion to Dismiss Non-Customers filed: April 3, 2006

Respondent SAS's Arbitration Brief filed: December 1, 2006

Respondent SAS's Uniform Submission Agreement signed: September 21, 2005

CASE SUMMARY

Claimants alleged the following claims with respect to investments in municipal bearer bonds: 1) Fraud/Suitability; 2) Breach of Fiduciary Duty; 3) Negligent Supervision, Retention and Hiring; and 4) Violation of California Securities Act.

Respondent SAS denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondent SAS also asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Damages in the amount of approximately \$727,000.00 plus the stated interest on each of Claimants' bond transactions;
2. Statutory interest, costs and reasonable attorneys' fees;
3. Punitive damages; and
4. Any other relief the Panel deems appropriate.

Respondent SAS requested:

1. Dismissal of Claimants' claims with prejudice;
2. Reasonable attorneys' fees and costs; and
3. Such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 21, 2005, Claimant Deanna Johnson and Claimant's counsel 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.

On February 11, 2005, Claimant Clint A. Johnson and Claimant's counsel 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.

On April 21, 2005, Claimant Karen L. Pushkin and Claimant's counsel 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.

On April 27, 2005, Claimant Ralph V. Johnson and Claimant's counsel 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.

On June 17, 2005, Claimants Glenda F. Johnson f/k/a Glenda Alsip and The Alsip Family Trust and Claimant's counsel 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 of the Claimants 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 or about April 14, 2006, the Panel reviewed and considered the positions of the parties relative to Respondent SAS's Motion to Dismiss. The panel denied the Motion to Dismiss.

Respondent Edwin J. Torres did not file with NASD Dispute Resolution ("NASD-DR") a Statement of Answer or properly executed submission to arbitration. The Panel determined that Respondent Torres was properly served with Claimants' Claim. The Panel also determined that Respondent Torres is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, is bound by the determination of the Panel on all issues submitted.

Respondent Torres did not appear at the evidentiary hearing in this matter. Pursuant to Rule 10318 of the Code, the Panel determined that Respondent Torres received proper notice of the hearing and ruled to proceed in Respondent Torres' absence.

The parties present at hearing 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. Respondents SAS and Edwin J. Torres are jointly and severally liable for and shall pay to Claimant Karen L. Pushkin the sum of \$130,623.00, inclusive of interest.
2. Respondents SAS and Edwin J. Torres are jointly and severally liable for and shall pay to Claimants Ralph V. Johnson, Glenda F. Johnson and The Alsip Family Trust the sum of \$44,057.00, inclusive of interest.
3. Respondents SAS and Edwin J. Torres are jointly and severally liable for and shall pay to Claimants Karen L. Pushkin, Ralph V. Johnson, Glenda F. Johnson and The Alsip Family Trust the sum of \$19,335.00 in costs.
4. All claims by Claimants Deanna Johnson and Clint A. Johnson are dismissed.
5. Claimants' claims for punitive damages are denied.
6. Except as mentioned in paragraph 3 above, each party shall bear its own costs, including attorney's fees.
7. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$375.00
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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 firm SAS is a party and the following fees are assessed:

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00
Total Member Fees	= \$7,000.00

Adjournment Fees

The following adjournment fees are assessed:

The Panel granted Respondent SAS's request to postpone the September 11-15, and September 18-22, 2006, hearing dates and assessed SAS the \$1,200.00 postponement fee.

Forum Fees and Assessments

The Panel 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

(2) Decisions on discovery-related motions on the papers
with a single arbitrator @ \$200.00 per decision = \$400.00
Respondent SAS submitted one discovery-related motion
Claimants submitted one discovery-related motion

(3) Pre-hearing conference sessions with the Panel
@ \$1,200.00/session = \$3,600.00
Pre-hearing conferences: December 22, 2005 1 session
April 14, 2006 1 session
September 7, 2006 1 session

(16) Hearing sessions @ \$1,200.00/session = \$19,200.00
Hearing Dates: December 11, 2006 2 sessions
December 12, 2006 2 sessions
December 13, 2006 1 session
December 14, 2006 2 sessions
December 15, 2006 2 sessions
December 18, 2006 2 sessions
December 19, 2006 2 sessions
December 20, 2006 2 sessions
December 21, 2006 1 session

Total Forum Fees = \$23,200.00

The Panel assessed \$7,733.33 in forum fees jointly and severally to Claimants Deanna Johnson, Clint A. Johnson, Karen L. Pushkin, Ralph V. Johnson, Glenda F. Johnson f/k/a Glenda Alsip and The Alsip Family Trust, Glenda Johnson Trustee.

The Panel assessed \$15,466.66 in forum fees jointly and severally to Respondents SAS and Edwin J. Torres.

The Panel waived forum fees in the amount of \$.01.

Fee Summary

1. Claimants Deanna Johnson, Clint A. Johnson, Karen L. Pushkin, Ralph V. Johnson, Glenda F. Johnson f/k/a Glenda Alsip and The Alsip Family Trust, Glenda Johnson Trustee are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 7,733.33
Total Fees	= \$ 8,108.33
Less Payments	= \$(1,575.00)
Balance Due NASD-DR	= \$ 6,533.33

2. Respondent SAS is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 8,200.00
Less Payments	= \$(8,200.00)
Balance Due NASD-DR	= \$ 0.00

3. Respondents SAS and Edwin J. Torres are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 15,466.66
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 15,466.66

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

ARBITRATION PANEL

Fred D. Butler, J.D.	-	Public Arbitrator, Presiding Chair
John P. Wilson, J.D.	-	Public Arbitrator
Richard Conlon Lehrmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Fred D. Butler, J.D.
Chair, Public Arbitrator

01/02/07
Signature Date

John P. Wilson, J.D.
Public Arbitrator

Signature Date

Richard Conlon Lehrmann
Non-Public Arbitrator

Signature Date


01/03/07
Date of Service

ARBITRATION PANEL

Fred D. Butler, J.D.	-	Public Arbitrator, Presiding Chair
John P. Wilson, J.D.	-	Public Arbitrator
Richard Conlon Lehrmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Fred D. Butler, J.D.
Chair, Public Arbitrator



John P. Wilson, J.D.
Public Arbitrator

Signature Date

1/8/07

Signature Date

Richard Conlon Lehrmann
Non-Public Arbitrator

Signature Date

01/03/07

Date of Service

ARBITRATION PANEL

Fred D. Butler, J.D.	-	Public Arbitrator, Presiding Chair
John P. Wilson, J.D.	-	Public Arbitrator
Richard Conlon Lehmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Fred D. Butler, J.D.
Chair, Public Arbitrator

Signature Date

John P. Wilson, J.D.
Public Arbitrator

Signature Date



12/29/06

Richard Conlon Lehmann
Non-Public Arbitrator

Signature Date

01/03/07

Date of Service