

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Beverly A. Weigand

Case Number: 04-03249

Name of the Respondent  
Securities America, Inc.

Hearing Site: New Orleans, Louisiana

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Beverly A. Weigand, hereinafter referred to as "Claimant": L. Jerome Stanley, Esq., L. Jerome Stanley, P.C., Baton Rouge, Louisiana.

For Securities America, Inc., hereinafter referred to as "Respondent": Meredith A. Cunningham, Esq. and Stephen H. Kupperman, Esq., Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., New Orleans, Louisiana.

**CASE INFORMATION**

Statement of Claim filed on or about: May 3, 2004.

Claimant signed the Uniform Submission Agreement on: May 28, 2004.

Statement of Answer filed by Respondent on or about: July 23, 2004.

Respondent signed but did not date the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant alleged the following causes of action: 1) breach of fiduciary duty; 2) misrepresentations/non-disclosures; 3) omission of facts; 4) suitability; and 5) gross negligence. The causes of action relate to the purchase of securities including, but not limited to, Munder Future Technology Fund, Cisco Systems, America Growth Fund, MFS Mass Investors Growth Fund, and Oracle.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$323,331.07; 2) punitive damages in the amount of \$300,000.00; 3) interest from the date of the investment until the date of repayment, less any income received; 4) all costs of the arbitration, including filing and hearing session fees; 5) expert witness fees; and 6) attorneys' fees.

Respondent requested: 1) denial of the Statement of Claim in its entirety; 2)

assessment of all forum fees and costs against Claimant; and 3) such other relief as is deemed just and proper.

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

During the evidentiary hearing, Respondent made an *ore tenus* motion for a directed verdict, which was denied by the Panel.

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, 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. All claims for relief, including Claimant's claims for punitive damages and attorneys' fees, are denied.
2. Any and all claims for relief not specifically addressed herein, are denied.

### **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	= \$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, Respondent is a party and a member firm.

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**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees incurred 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 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 per session = \$450.00  
Pre-hearing conference: May 2, 2006 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 per session = \$1,200.00  
Pre-hearing conference: February 6, 2006 1 session

Nine (9) Hearing sessions @ \$1,200.00 per session = \$10,800.00  
Hearing Dates: June 12, 2006 3 sessions  
June 13, 2006 2 sessions  
June 14, 2006 3 sessions  
June 15, 2006 1 session

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Total Forum Fees = \$12,450.00

The Panel has assessed \$12,450.00 of the forum fees to Respondent.

**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:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00

<u>Less payments</u>	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$12,450.00
Total Fees	= \$19,450.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$12,450.00

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

**ARBITRATION PANEL**

<i>Simon F. Savoie, Jr., CPA</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Mark A. Myers, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Arthur W. Pigott</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

/s/  
Simon F. Savoie, Jr., CPA  
Public Arbitrator, Presiding Chairperson

June 16, 2006  
Signature Date

/s/  
Mark A. Myers, Esq.  
Public Arbitrator

June 19, 2006  
Signature Date

/s/  
Arthur W. Pigott  
Non-Public Arbitrator

June 16, 2006  
Signature Date

June 19, 2006  
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution  
Arbitration No. 04-03249  
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<u>Less payments</u>	= \$ 375.00
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Respondent is solely liable for:

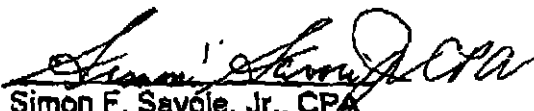
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Simon F. Savoie, Jr., CPA  
Public Arbitrator, Presiding Chairperson

6/16/06  
Signature Date

\_\_\_\_\_  
Mark A. Myers, Esq.  
Public Arbitrator

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

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Arthur W. Pigott  
Non-Public Arbitrator

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**Concurring Arbitrators' Signatures**

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Public Arbitrator, Presiding Chairperson

Signature Date

  
Mark A. Myers, Esq.  
Public Arbitrator

6-19-06  
Signature Date

Arthur W. Pigott  
Non-Public Arbitrator

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