

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Jerry Tankersley

Case Number: 05-03921

Name of the Respondent  
Joseph Stevens & Company, Inc.

Hearing Site: Jackson, Mississippi

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Nature of the Dispute: Customer v. Member.

**REPRESENTATION OF PARTIES**

For Jerry Tankersley, hereinafter referred to as "Claimant": J. Brad Pigott, Esq., Pigott, Reeves, Johnson & Minor, P.A., Jackson, Mississippi.

For Joseph Stevens & Company, Inc., hereinafter referred to as "Respondent": Martin P. Russo, Esq., Nixon Peabody, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: July 29, 2005.

Claimant signed the Uniform Submission Agreement on: July 28, 2005.

Answer and Affirmative Defenses filed on or about: August 30, 2005.

Respondent signed the Uniform Submission Agreement on: August 10, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) unauthorized trading; 2) unsuitability; 3) negligence; and 4) failure to supervise. The causes of action relate to the purchase and sale of shares of common stock in, including but not limited to, Ultra Petroleum Corporation and Cedric Kushner Promotions, Inc.

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) unspecified compensatory damages; 2) attorneys' fees; 3) costs; and, 4) unspecified punitive damages.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety.

### **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:

All Claimant's claims for relief are denied, including Claimant's requests for punitive damages and attorneys' fees.

### **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	= \$ 250.00
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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	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

#### **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) Decision on a discovery-related motion on the papers  
with one (1) arbitrator @ \$200.00 = \$ 200.00  
Respondent submitted (1) discovery-related motion

One (1) Pre-hearing session with Panel @ \$1,000.00/session = \$1,000.00  
Pre-hearing conference: December 2, 2005 1 session

Four (4) Hearing sessions @ \$1,000.00/session = \$4,000.00  
Hearing Dates: August 7, 2006 2 sessions  
August 8, 2006 2 sessions

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Total Forum Fees = \$5,200.00

The Panel has assessed \$ 5,200.00 of the forum fees to Claimant.

### **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 are 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	= \$ 250.00
Forum Fees	= \$5,200.00
Total Fees	= \$5,450.00
Less payments	= \$1,250.00
Balance Due NASD Dispute Resolution	= \$4,200.00

Respondent is solely liable for:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
Less payments	= \$4,450.00
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**

Susan G. Pinkston	-	Public Arbitrator, Presiding Chairperson
Edward B. Scott	-	Public Arbitrator
John P. Lusk	-	Non-Public Arbitrator

### **Concurring Arbitrators' Signatures**

/s/  
Susan G. Pinkston  
Public Arbitrator, Presiding Chairperson

August 9, 2006  
Signature Date

/s/  
Edward B. Scott  
Public Arbitrator

August 9, 2006  
Signature Date

/s/  
John P. Lusk  
Non-Public Arbitrator

August 10, 2006  
Signature Date

August 10, 2006  
Date of Service (For NASD Dispute Resolution office use only)

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Edward B. Scott	-	Public Arbitrator
John P. Lusk	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Susan G. Pinkston  
Public Arbitrator, Presiding Chairperson

8/9/06  
Signature Date

\_\_\_\_\_  
Edward B. Scott  
Public Arbitrator

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

\_\_\_\_\_  
John P. Lusk  
Non-Public Arbitrator

\_\_\_\_\_  
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Susan G. Pinkston  
Public Arbitrator, Presiding Chairperson

Signature Date

Edward B. Scott  
Edward B. Scott  
Public Arbitrator

8-9-07  
Signature Date

John P. Lusk  
Non-Public Arbitrator

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Susan G. Pinkston  
Public Arbitrator, Presiding Chairperson

Signature Date

Edward B. Scott  
Public Arbitrator

Signature Date

  
John P. Lusk  
Non-Public Arbitrator

05/10/2006  
Signature Date

Date of Service (For NASD Dispute Resolution office use only)