

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Edward G. Kuekes and Roberta E. Kuekes,
individually and as co-trustees of the Kuekes Living Trust;
Sherrill K. Bouchereau, as trustee of the Kuekes Trust;
Joyce Elaine McClellan and Sherrill K. Bouchereau,
as co-trustees of the Kernel Trust

and

Case Number: 05-04947
Hearing Site: Oklahoma City, Oklahoma

Names of Respondents

Nova Financial Group, Inc. and
Timothy B. Dickey

NATURE OF DISPUTE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust ("Claimants") were represented by Sheldon B. Swan, Esq., Dunn, Swan & Cunningham, Oklahoma City, Oklahoma.

Nova Financial Group, Inc. ("Respondent") of Durant, Oklahoma, did not enter an appearance in this matter.

Timothy B. Dickey ("Respondent") of Durant, Oklahoma, did not enter an appearance in this matter.

CASE INFORMATION

The Statement of Claim was filed on or about April 4, 2005. The Submission Agreement of Claimants, Edward G. Kuekes and Roberta E. Kuekes, individually, was signed on or about March 23, 2005. The Submission Agreement of Claimants, Edward G. Kuekes and

Roberta E. Kuekes, as co-trustees of the Keukes Living Trust, was signed on or about April 12, 2005.

The Submission Agreement of Claimant, Sherrill K. Bouchereau, as trustee of the Kuekes Trust, was signed on or about March 23, 2005.

The Submission Agreement of Claimants, Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust, was signed on or about March 23, 2005.

Claimants' Request for Evidentiary Hearing was filed on or about October 13, 2005.

Respondent, Nova Financial Group, Inc., did not file an Answer or a Submission Agreement.

Respondent, Timothy B. Dickey, did not file an Answer or a Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; breach of fiduciary duties; violation of 71 O.S. 1991, §408, and breach of implied contract. The causes of action related to the recommendation and order execution of Boston Capital Tax Credit Fund, Broad Band Wireless Communications and Datalynx. The Claimants alleged that the Respondents recommended they invest in these companies and purchase a variable universal life insurance policy and a variable annuity despite knowing that there were unsuitable for the Claimants' financial needs.

RELIEF REQUESTED

Claimants requested an award in the amount of \$512,418.00 in compensatory damages, \$512,418.00 in punitive damages, costs and any further relief the panel deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Initially, Claimants' claims against Respondent, Nova Financial Group, Inc., and Timothy B. Dickey, were arbitrated in NASD Arbitration Case 05-01750. By letter dated August 3, 2005, Claimants opted to proceed against Respondents Nova Financial Group, Inc., and Timothy B. Dickey, pursuant to Rule 10314(e) of the *NASD Code of Arbitration Procedure* ("Code"). The claims against Respondents were bifurcated from Case 05-01750 because Respondents failed to file Answers.

The arbitrator determined that Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, were properly served notice of the Statement of Claim and Notification of the

Arbitrator by certified mail, and that Respondent, Timothy B. Dickey, is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

The undersigned arbitrator has decided and determined in full and final resolution of the issues for determination as follows:

- 1) Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, are jointly and severally liable for and shall pay to Claimants, Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust, the sum of \$512,418.00 in compensatory damages;
- 2) Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, are jointly and severally liable for and shall pay to Claimants, Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust, interest at the rate of 5% per annum on the above-stated sum from and including December 1, 2005 through and including the date the award is paid in full;
- 3) Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, are jointly and severally liable for and shall pay to Claimants, Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust, the sum of \$512,418.00 in punitive damages pursuant to Tit. 23 Ok. St. Sec. 9.1;
- 4) Respondents, Nova Financial Group, Inc., and Timothy B. Dickey, are jointly and severally liable for and shall pay to Claimants, Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust, the sum of \$5,000.00 in attorneys' fees pursuant to 71 Ok St. 408;

- 5) Other than Forum Fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 6) Any relief not specifically enumerated, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$500.00
(waived due to the Claimants proceeding under Rule 10314(e) of the Code)

Forum Fees and Assessments

The Arbitrator assesses a forum fee for an Award issued under the Default Proceedings. Fees associated with these proceedings are:

Default Proceedings = \$ 300.00

Total Forum Fees = \$ 300.00

The Arbitrator has assessed \$75.00 of the forum fees jointly and severally to Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust.

The Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Nova Financial Group, Inc. and Timothy B. Dickey.

Fee Summary

Claimants, Edward G. Kuekes and Roberta E. Kuekes, Individually and as co-trustees of the Kuekes Living Trust; Sherrill K. Bouchereau, as trustee of the Kuekes Trust; Joyce Elaine McClellan and Sherrill K. Bouchereau, as co-trustees of the Kernel Trust., are jointly and severally liable for:

Forum Fees	= \$ 75.00
Total Fees	= \$ 75.00
Less payments	= \$ 0.00

Balance Due NASD Dispute Resolution = \$ 75.00

Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, are jointly and severally liable for:

Forum Fees = \$225.00

Total Fees = \$225.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$225.00

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

ARBITRATOR

Henry Trattner, Esq. - Public Arbitrator, Presiding Chair

Concurring Arbitrators:

/s/ Henry Trattner, Esq.
Henry Trattner, Esq.
Public Arbitrator, Presiding Chair

11/7/05
Signature Date

11/8/05
Date of Service (For NASD office use only)

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Balance Due NASD Dispute Resolution = \$ 75.00

Respondents, Nova Financial Group, Inc. and Timothy B. Dickey, are jointly and severally liable for:

Forum Fees = \$225.00

Total Fees = \$225.00

Less payments = \$ 0.00

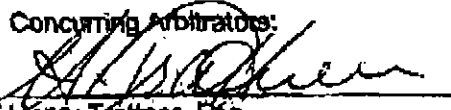
Balance Due NASD Dispute Resolution = \$225.00

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

ARBITRATOR

Henry Trattner, Esq. - Public Arbitrator, Presiding Chair

Concurring Arbitrator:


Henry Trattner, Esq.
Public Arbitrator, Presiding Chair

7 Nov. '05
Signature Date

Date of Service (For NASD office use only)