

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Richard L. Johns (Claimant) vs. CUNA Brokerage Services, Inc., and Emmor E. Boslet (Respondents)

Case Number: 06-00636

Hearing Site: Philadelphia, Pennsylvania

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

**REPRESENTATION OF PARTIES**

Claimant Richard L. Johns hereinafter referred to as "Claimant": Robert Bleacher, Esq., Pecht & Associates, Mechanicsburg, PA.

Respondents CUNA Brokerage Services, Inc. ("CUNA"), and Emmor E. Boslet ("Boslet") hereinafter collectively referred to as "Respondents": Maura K. McKelvey, Esq., Hinshaw & Culbertson, LLP, Boston, MA.

**CASE INFORMATION**

Statement of Claim filed on or about: February 9, 2006.

Claimant signed the Uniform Submission Agreement: February 6, 2006.

Joint Statement of Answer filed by Respondents on or about: April 19, 2006.

CUNA signed the Uniform Submission Agreement: March 2, 2006.

Boslet did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; misrepresentations; suitability; omission of facts; breach of fiduciary duty; failure to supervise; unjust enrichment; and, violation of Pennsylvania unfair trade practices.

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

**RELIEF REQUESTED**

Claimant requested \$1,200,000.00 in compensatory damages; \$2,400,000.00 in treble damages; unspecified punitive damages; interest; attorneys' fees and all other damages awarded by the Panel. The causes of action relate to unspecified mutual funds and variable annuities.

Respondents requested dismissal of the Statement of Claim in its entirety.

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

Respondent Boslet did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about September 22, 2006, Respondents filed a Motion to Dismiss Claimant's claim. The arbitrators reviewed all submissions by the parties and after due deliberation by the Panel determined to deny the Respondents' Motion.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be executed.

### **AWARD**

After considering the pleadings, the testimony, and evidence presented at the hearings, 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 the Claimant compensatory damages in the amount of \$31,000.00 plus interest at 6% per annum accruing from the date of service of the Award until the Award is paid in full.
2. Any and all relief not specifically addressed herein, including punitive and treble 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	= \$ 600.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, CUNA Brokerage Services, Inc., is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

#### **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 Panel @ \$1,200.00 per session	= \$ 4,800.00
Pre-hearing conferences: July 12, 2006	1 session
October 13, 2006	1 session
November 8, 2006	1 session
December 8, 2006	1 session
Eight (8) Hearing sessions with Panel @ \$1,200.00 per session	= \$9,600.00
Hearing Dates: December 12, 2006	2 sessions
December 13, 2006	2 sessions
December 14, 2006	2 sessions
December 15, 2006	2 sessions
Total Forum Fees	= \$14,400.00

The Panel has assessed \$14,400.00 of the forum fees, jointly and severally, against the Respondents.

#### Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 1,800.00
Refund Due Claimant	= \$ 1,200.00

2. Respondent CUNA is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

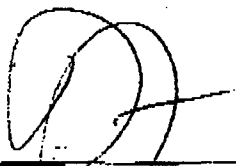
Forum Fees	= \$14,400.00
Total Fees	= \$14,400.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$14,400.00

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

**ARBITRATION PANEL**

Rafael A. Porrata-Doria, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Edward Blumstein, Esq.	-	Public Arbitrator
Catherine Ladnier	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



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Rafael A. Porrata-Doria, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

4 Jan 07  
Signature Date

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Edward Blumstein, Esq.  
Public Arbitrator

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Signature Date

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Catherine Ladnier  
Non-Public Arbitrator

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Signature Date

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January 5, 2007  
Date of Service (For NASD Dispute Resolution use only)

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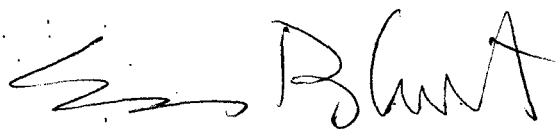
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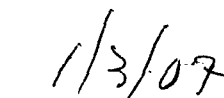
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