

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

The GMS Group, LLC (Claimant) vs. Chatsworth Securities, LLC and Southwest Securities, Inc. (Respondents)

Case Number: 06-01201

Hearing Site: New York, New York

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Nature of the Dispute: Member vs. Members

**REPRESENTATION OF PARTIES**

Claimant The GMS Group, LLC hereinafter referred to as "Claimant": Timothy Walsh, Esq., and Jules Elese Angelley, Esq., DLA Piper Rudnick Gray Cary US LLP, New York, NY.

Respondent Chatsworth Securities, LLC ("Chatsworth"): Joel Matcovsky, Chatsworth Securities, LLC, Greenwich, CT.

Respondent Southwest Securities, Inc. ("Southwest"): Jerome S. Wade, Southwest Securities, Inc., Dallas, TX.

**CASE INFORMATION**

Statement of Claim filed on or about: March 8, 2006.

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

Statement of Answer and Counterclaim filed by Chatsworth on or about: May 26, 2006.

Chatsworth signed the Uniform Submission Agreement: May 25, 2006.

Southwest did not submit a Statement of Answer or a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: fraud, negligent misrepresentation, and specific performance. The causes of action relate to Claimant's purchase of variable rate bonds.

Unless specifically admitted in its Answer, Chatsworth denied the allegations made in the Statement of Claim.

In its Counterclaim, Chatsworth asserted the following causes of action: defamation, undue restrictions, extortion, lost time, and unnecessary discomfort and anxiety.

### **RELIEF REQUESTED**

Claimant requested that the Panel order reclamation of the bonds and/or rescind the transaction, attorneys' fees, costs, and such other relief as the Panel deems fair and just.

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

In its Counterclaim, Chatsworth requested compensatory damages in the amount of \$2,000,000.00.

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

Respondent Southwest 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 is bound by the determination of the Panel on all issues submitted.

By letter dated April 28, 2006 Claimant notified NASD Dispute Resolution that Claimant dismisses all claims against Respondent Southwest.

On September 7, 2006 Claimant submitted a Motion for Summary Judgment for an Order that all claims and counterclaims by Chatsworth against Claimant are settled and released in accordance with the Mutual Release sent by Chatsworth to Claimant on or about April 10, 2006. Chatsworth submitted a Response to the Motion for Summary Judgment on September 8, 2006. On September 12, 2006 the Panel and parties held a pre-hearing conference to resolve Claimant's Motion for Summary Judgment. The Panel reviewed all submissions, considered all oral arguments, and heard witness testimony regarding Claimant's Motion. After due deliberation, the Panel granted Claimant's Motion for Summary Judgment.

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 September 12, 2006 pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Although it was not formally executed, Claimant and Chatsworth intended to be bound by the Mutual Release document drafted by Chatsworth, the terms of which were fully performed. Accordingly, Claimant and Chatsworth are bound by the terms of the Mutual Release document.
2. Claimant's claims are withdrawn and Respondent Chatsworth's Counterclaim is dismissed in its entirety.
3. Any and all relief not specifically addressed herein 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	= \$ 500.00
Counterclaim filing fee	= \$ 2,000.00

#### **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, The GMS Group, LLC and Chatsworth Securities, LLC are parties.

Member Surcharge	= \$ 1,500.00
Pre-hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00

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, Southwest Securities, Inc. is a party.

Member Surcharge	= \$ 1,500.00
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#### **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 (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: August 14, 2006	1 session
September 12, 2006	2 sessions
<hr/> Total Forum Fees	<hr/> = \$ 3,600.00

1. The Panel has assessed \$1,800.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,800.00 of the forum fees to Chatsworth.

### **Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 7,250.00
Forum Fees	= \$ 1,800.00
<hr/> Total Fees	<hr/> = \$ 9,550.00
Less payments	= \$ 3,750.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 5,800.00

2. Respondent Chatsworth is solely liable for:

Counterclaim Filing Fee	= \$ 2,000.00
Member Fees	= \$ 7,250.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$11,050.00
Less payments	= \$10,450.00
Balance Due NASD Dispute Resolution	= \$ 600.00

3. Respondent Southwest is solely liable for:

Member Fees	= \$ 1,500.00
Total Fees	= \$ 1,500.00
Less payments	= \$ 1,500.00
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**

Christine Costigan	-	Non-Public Arbitrator, Presiding Chairperson
John J. Phelan, Esq.	-	Non-Public Arbitrator
Robina Fedora Asti	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Christine Costigan  
Non-Public Arbitrator, Presiding Chairperson

9/25/06

Signature Date

John J. Phelan, Esq.  
Non-Public Arbitrator

Signature Date

Robina Fedora Asti  
Non-Public Arbitrator

Signature Date

**September 27, 2006**

Date of Service (For NASD Dispute Resolution use only)

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**September 27, 2006**

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