

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

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In the Matter of the Arbitration Between

Name of Claimants

Homer Coker and Cynthia Coker, JTWROS  
Laura Coker and Cynthia Coker, JTWROS

95-05789

Name of Respondents

Hunter International Securities, Inc.  
Steven H. Larkin  
Ed Donner  
William David Jones

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**REPRESENTATION**

Claimants Homer and Cynthia Coker, JTWROS and Laura and Cynthia Coker, JTWROS (collectively "Claimants") were represented by L. Bruce McDaniel, Esq., McDaniel & Anderson, Raleigh, NC.

Respondent Steven H. Larkin appeared *pro se*.

Respondents Hunter International Securities, Inc. ("Hunter"), Ed Donner ("Donner") and William D. Jones ("Jones") did not appear.

**CASE INFORMATION**

The Statement of Claim was filed December 11, 1995.  
The Amended Statement of Claim was filed February 12, 1996.  
Claimants' Submission Agreement was signed on November 11, 1995.

Hunter's Statement of Answer was filed February 20, 1996.  
The Joint Statement of Answer of Larkin and Donner was filed March 14, 1996.  
Jones did not submit an Answer.  
Respondent Hunter's Submission Agreement was signed on February 21, 1996.  
Respondent Larkin's Submission Agreement was signed on January 22, 1996.  
Respondents Donner and Jones did not submit executed agreements to arbitrate.

**HEARING INFORMATION**

Hearing Dates/Sessions:      March 24, 1997/two sessions  
   March 25, 1997/one session

Hearing Location:              Raleigh Plaza Hotel  
   Raleigh, NC

### CASE SUMMARY

Claimants alleged, among other things, that they were solicited by Respondents and induced to authorize the purchase of 82,000 shares of SKYS stock at an average price of \$.6165 between July 21, 1994 and August 8, 1994. Claimants alleged that they issued verbal orders on several occasions to sell of the shares if it ever reached \$2.00 per share. Claimants alleged that SKYS stock went up to \$2.00 per share between August 8, 1994 and August 17, 1994, but it was not sold by Respondents. Claimants alleged that as the price fell that they repeatedly requested that the stock be sold but Respondents refused Claimants' orders to sell, making elaborate excuses each time as to why "the front office" didn't think we needed to sell. Claimants alleged that when it appeared that SKYS might go back up in price Respondents induced Claimants to authorize the purchase of an additional 7,000 shares at \$.875 per share on August 17, 1994. Claimants alleged that on August 22, 1994 they issued verbal and written instructions to liquidate all positions in this stock if it dropped to \$.76 per share. Claimants alleged that on October 6, 1994 they discovered that their instructions had not been followed by Respondents.

Claimants alleged that Respondents made unauthorized transactions in Claimants' accounts and also coerced Claimants to authorize unsuitable transactions beginning in October 1994. Claimants alleged that these transactions were for stock which Respondents knew nothing about other than Respondents assertions that they would replicate the gains made by SKYS if Claimants sold SKYS shares and replaced them with other hot stock. Claimants alleged that Respondents wilfully made false, fraudulent statements, material misrepresentations concerning both themselves as well as the securities they were promoting in addition to not following buy and sell orders.

Claimants alleged violations of Rule 10b-5 of the federal securities law; North Carolina securities law fraud; breach of contract; breach of fiduciary duty; common law fraud; constructive fraud; and negligence.

Respondents Hunter, Larkin and Donner (collectively "Respondents") denied all allegations of wrongdoing as asserted in the Statement of Claim and the Amended Statement of Claim. Respondents denied that there were no misrepresentations as to the SKYS shares and the purchase was suitable for Claimants in light of Claimants' investment objectives. Respondents raised the affirmative defenses of contributory negligence; waiver; estoppel; laches and/or ratification. In addition, Respondents maintained that any losses suffered by Claimants were the result of Claimants' own investment decisions and market fluctuations.

Respondent Jones did not file an Answer.

### RELIEF REQUESTED

Claimants requested \$167,320.00 in actual damages arising from the failure of Respondents Hunter, Larkin, Donner and Jones to execute a sell order in Claimants' accounts; reaffirmance of February 26, 1997 order of the panel for \$2,852.00 in costs and legal fees; costs in addition to the aforementioned order in the amount of \$1,100.00; reasonable attorney's fees, and that all costs and fees associated with this arbitration be assessed to Respondents Hunter, Larkin, Donner and Jones.

Respondents requested that the Statement of Claim and the Amended Statement of Claim be dismissed and that they be awarded the costs of defending against these claims.

### OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The panel found that pursuant to NASD Regulation Rule 10301 of the Code of Arbitration Procedure ("Code") requires Respondent William D. Jones to submit to arbitration as a principal of Hunter International Securities, Inc. notwithstanding his failure to file a properly executed agreement to arbitrate. The panel found that proper service had been made upon Jones, or in the alternative on Hunter according to the Code, and therefore, Jones is bound by the determination of the panel on all issues.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent Larkin is found not liable under any cause of action asserted by Claimants and is hereby dismissed from this matter and shall not be liable for any damages hereinafter awarded to Claimants. Respondent Larkin's request for costs and fees is denied.
2. That Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones are found jointly and severally liable for and shall pay to Claimants the sum of \$167,320.00, such sum representing actual damages arising from the causes of action as alleged by Claimants, including but not limited to common law fraud.
3. That Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones are found jointly and severally liable to and shall pay to Claimants the sum of \$1,100.00, such sum representing Claimants' costs not previously awarded.
4. That the February 26, 1997 ruling of the panel on interim costs is revised to reflect that Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones are jointly and severally liable to and shall pay to Claimants the sum of \$2,852.00.
5. That Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones are jointly and severally liable to and shall pay to Claimants \$50,196.00 for attorney's fees pursuant to state securities law.
6. That Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones are liable to and shall reimburse Claimants for the \$750.00 hearing session deposit previously submitted to the NASD Regulation.
7. That any and all relief not specifically addressed herein is denied.

**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

3 sessions x \$750.00 = \$2,250.00

Forum Fees are assessed against Respondents Hunter International Securities, Inc., Ed Donner and William D. Jones, jointly and severally. Respondents shall receive credit for the \$750.00 hearing session deposit, previously submitted by Claimants and reimbursed to Claimants by Respondents, leaving a net assessment due of \$1,500.00.

Fees are payable to the National Association of Securities Dealers Regulation, Inc.

**DATE**

**CONCURRING ARBITRATORS' SIGNATURES**

4.3.97

David Brooks Adcock

David Brooks Adcock, Chairman  
Public Arbitrator

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George Szontagh  
Public Arbitrator

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F. Daniel Bell, III  
Industry Arbitrator

Date Decision Served by NASD Regulation:

April 11, 1997

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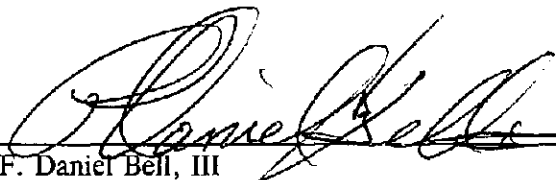
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