

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Roland C. Nivette, Sr., Individually and as Trustee of the Roland C. Nivette, Sr. Trust and Rosalyn Reiss Nivette, Individually and as Trustee of the Rosalyn Reiss Nivette Trust (hereinafter Roland C. Nivette, Sr. and Rosalyn Reiss Nivette), Claimants v. Amerivet Securities, Inc. and Peter M. Landay, Respondents.

Case Number: 99-00075

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants, Roland C. Nivette, Sr.
and Rosalyn Reiss Nivette:

Kalju Nekvasil, Esq.
Goodman & Nekvasil, P.A.
Clearwater, Florida

Scot Bernstein, Esq.
Law Offices of Scot Bernstein
Sacramento, California

For Respondent, Amerivet Securities, Inc.:

Charles Albert, Esq.
Albert, Whitehead & McGaugh
Chicago, Illinois

Rickey Ivie, Esq.
Ivie, McNeill & Wyatt
Los Angeles, California

For Respondent, Peter M. Landay:

William W. Steckbauer, Esq.
Shumaker, Sragow & Steckbauer, LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 8, 1999

Claimants, Roland C. Nivette, Sr. and Rosalyn Reiss Nivette, signed the Uniform Submission Agreement: May 12, 1998

Statement of Answer filed by Respondent, Amerivet Securities, Inc.: April 1, 1999

Amended Statement of Answer filed by Respondent, Amerivet Securities, Inc.: September 22, 1999

Statement of Answer filed by Respondent, Peter M. Landay: May 3, 1999

Amended Statement of Answer filed by Respondent, Peter M. Landay: September 21, 1999

Respondent Amerivet Securities, Inc. signed the Uniform Submission Agreement: March 30, 1999

CASE SUMMARY

Claimants alleged breach of contract, misrepresentation, negligence, failure to supervise, and breach of fiduciary duty.

Respondents denied each and every allegation of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested at least \$100,000.00 in compensatory damages, punitive damages, interest, and reimbursement of attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and reimbursement of costs and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Peter M. Landay did not file with the NASD Regulation, Inc., Office of Dispute Resolution a properly executed Uniform Submission Agreement, but is required to submit to arbitration pursuant to the Code.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents, Amerivet Securities, Inc. and Peter M. Landay, are jointly and severally liable to and shall pay Claimants \$117,518.82 in compensatory damages.
- 2) Respondents, Amerivet Securities Inc. and Peter M. Landay, are jointly and severally liable to and shall pay Claimants \$14,366.65 in costs for arbitration.
- 3) Respondents, Amerivet Securities Inc. and Peter M. Landay, are jointly and severally liable to and shall pay Claimants \$58,320.00 in attorney's fees.
- 4) Upon full payment of the award by Respondents, Claimants are ordered to rescind to Respondents Landay and Amerivet all the right, title and interests in the subject notes in FLIC within thirty days of said full payment. Such interests are to be rescinded in favor of Respondents, jointly and severally, together with an assignment of all their right, title and interests in any Class Actions and the Bankruptcy filed in connection with the FLIC notes in issue in this arbitration.
- 5) Post-judgment interest is to be paid by Respondents at a rate of ten percent (simple), beginning thirty days after the date of this award.
- 6) All relief requested and not granted is expressly denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 200.00
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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. In this matter the member firm, Amerivet Securities, Inc. is a party.

Member Surcharge	= \$1,500.00
Pre-Hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00
Total Member Fees	= \$4,600.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$300.00 = \$ 600.00

Pre-hearing conferences:	July 20, 1999	1 session
	August 6, 1999	1 session

One (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00

Pre-hearing conference:	June 15, 1999	1 session
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Nine (9) Hearing sessions x \$750.00 = \$6,750.00

Hearing Dates:	September 22, 1999	2 sessions
	September 23, 1999	2 sessions
	September 24, 1999	2 sessions
	September 27, 1999	3 sessions

Total Forum Fees = **\$8,100.00**

1. The Arbitration Panel has assessed \$4,050.00 of the forum fees to Respondent Amerivet Securities, Inc.
2. The Arbitration Panel has assessed \$4,050.00 of the forum fees to Respondent Peter M. Landay.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent Peter M. Landay, 67 copies: = \$ 67.00
2. Claimants, 726 copies: = \$ 726.00

Fee Summary

1. Claimants, Roland C. Nivette, Sr. and Rosalyn Reiss Nivette, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 200.00
<u>Administrative costs</u>	= \$ 726.00
Total Fees	= \$ 926.00
<u>Less payments</u>	= \$ 950.00
Refund Due Claimants	= \$ 24.00

2. Respondent, Amerivet Securities, Inc. is charged with the following fees and costs:

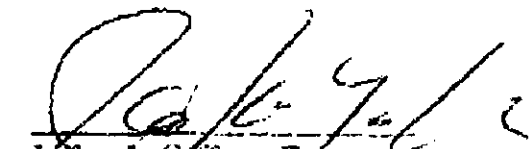
Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$4,050.00
Total Fees	= \$8,650.00
<u>Less payments</u>	= \$2,158.50
Balance Due NASD Regulation, Inc.	= \$6,491.50

3. Respondent, Peter M. Landay, is charged with the following fees and costs:

Administrative Cost	= \$ 67.00
<u>Forum Fees</u>	= \$4,050.00
Total Fees	= \$4,117.00
<u>Less Payments</u>	= \$ 67.00
Balance Due NASD Regulation, Inc.	= \$4,050.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

Concurring Arbitrators' Signatures


Jeffrey L. Gaffney, Esq.
Public Arbitrator, Presiding Chair

01 OCT 99
Signature Date

Robert A. Uhl, Esq.
Industry Arbitrator

Signature Date

Jack P. Jaye
Public Arbitrator

Signature Date

Date of Service

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Jeffrey L. Gaffney, Esq.
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Jack P. Jaye
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10/1/99

Signature Date

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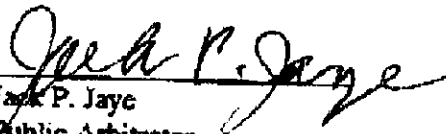
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Jack P. Jaye
Public Arbitrator

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