

**N.A.S.D. REGULATION, INC.
STIPULATED AWARD**

In the Matter of the Arbitration Between

ROGER L. KIRKPATRICK, and
PAMELA L. KIRKPATRICK,

Claimants,

NASD Case No. 99-00174
Situs: Detroit, Michigan

v.

RONEY & CO., and DALE HICKS,
jointly and severally,

Respondents.

REPRESENTATION OF PARTIES

Claimants Roger L. Kirkpatrick and Pamela L. Kirkpatrick ("Claimants") were represented by Joel H. Kaufman, Esq. at 31275 Northwestern Highway, Suite 140, Farmington Hills, Michigan, 48334.

Respondents Roney & Co. and Dale Hicks ("Respondents") were represented by Raymond W. Henney, Esq. of Honigman Miller Schwartz and Cohn, located at 2290 First National Building, 660 Woodward Avenue, Detroit, Michigan, 48226.

CASE INFORMATION

The Statement of Claim was filed on about December 22, 1998.

Claimants' Uniform Submission Agreement was signed on January 6, 1999.

Respondents' Statement of Answer was filed on about March 12, 1999.

Respondents' Uniform Submission Agreement was signed on March 15, 1999.

CASE SUMMARY

In the Statement of Claim, Claimants allege that Respondent Dale Hicks engaged in excessive options and margin transactions solely for the purpose of generating commissions. Claimants allege that Respondent Hicks, through his recommendations and actions, generated over \$40,000 in improper commissions from 1996 to 1998. Claimants claim that Respondent Hicks churned Claimants' account, that his recommendations were unsuitable, and that his conduct constituted a breach of contract, negligence, breach of fiduciary duty, fraudulent misrepresentation and violations of the Michigan Consumer Protection Act.

In their Statement of Answer, Respondents deny Claimants' allegations and assert that the arbitration is a belated attempt to hold Respondents strictly liable for the performance of the stock market. Respondents deny that Respondent Hicks recommended unsuitable investments, or that he engaged in excessive options and margin transactions solely for the purpose of generating commissions. Respondents contend that Respondent Hicks recommended financially sound companies based upon competent research, that Respondent Hicks adequately explained the nature and quality of the securities, and that Claimants selected each investment on a fully informed basis. Respondents also contend that the vast majority of Respondent Hicks' recommendations performed well and Claimants are only choosing those that happened to decline for the basis of their claim.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested out-of-pocket damages in the amount of \$41,307.89, interest, attorneys' fees, costs, and exemplary damages.

In the Statement of Answer, Respondents request the dismissal of all claims with prejudice and the expungement of all references to this action from Respondent Hicks' CRD record.

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 November 1999, the parties entered into a confidential settlement resolving their dispute. One of the terms of that settlement is that the parties would submit a stipulation to have this case expunged from Respondent Dale Hicks' record on the Central Registration Depository ("CRD").

STIPULATED AWARD

After considering the parties submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Dale Hick's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Dale Hicks (CRD # 1382161) must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 2.) That other than Forum Fees which are specified below, the parties shall each bear *their own costs and expenses incurred in this matter*;
- 3.) That any relief not specifically enumerated, including exemplary damages is hereby denied with prejudice.

FORUM 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 = \$120.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firms is a party .

Member surcharge = \$ 800.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings: N/A

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$400.00 = \$400.00

Pre-hearing conference: August 23, 1999 1 session

Total Forum Fees = \$400.00

The Panel has assessed \$200.00 of the forum fees jointly and severally to Roger L. Kirkpatrick and Pamela L. Kirkpatrick.

The Panel has assessed \$200.00 of the forum fees to Roney & Co.

Fee Summary

Claimants, Roger L Kirkpatrick and Pamela L. Kirkpatrick, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 120.00
<u>Forum Fees</u>	= \$ 200.00
Total Fees	= \$ 320.00
<u>Less payments</u>	= \$ 320.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondent, Roney & Company, be and hereby is solely liable for:

Member Fees	= \$ 2,400.00
<u>Forum Fees</u>	= \$ 200.00
Total Fees	= \$ 2,600.00
<u>Less payments</u>	= \$ 2,600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures:

<u>/s/ E. Daniel Grady, Chairperson</u>	<u>05/09/00</u>
E. Daniel Grady, Chairperson	Dated:
Public Arbitrator	

<u>/s/ William D. Keller</u>	<u>07/20/00</u>
James C. Bylenga	Dated:
Industry Arbitrator	

<u>/s/ William D. Keller</u>	<u>05/10/00</u>
William D. Keller	Dated:
Public Arbitrator	

Date Stipulated Award served on the parties: 07/20/00
(For NASD Regulation, Inc. Use Only)

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Initial Filing Fee	= \$ 120.00
Forum Fees	= \$ 200.00
Total Fees	= \$ 320.00
Less payments	= \$ 320.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondent, Roney & Company, be and hereby is solely liable for:

Member Fees	= \$ 2,400.00
Forum Fees	= \$ 200.00
Total Fees	= \$ 2,600.00
Less payments	= \$ 2,600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures:

E. Daniel Grady, Chairperson
Public Arbitrator

Dated:


James C. Bylenga
Industry Arbitrator

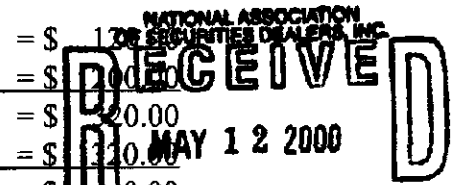

Dated:

William D. Keller
Public Arbitrator

Dated:

Date Stipulated Award served on the parties: _____
(For NASD Regulation, Inc. Use Only)

Initial Filing Fee	= \$	1,200.00
<u>Forum Fees</u>	= \$	200.00
Total Fees	= \$	1,400.00
<u>Less payments</u>	= \$	1,400.00
Balance Due NASD Regulation, Inc.	= \$	0.00



Respondent, Roney & Company, be and hereby is solely liable for:

Member Fees	= \$	2,400.00
<u>Forum Fees</u>	= \$	200.00
Total Fees	= \$	2,600.00
<u>Less payments</u>	= \$	2,600.00
Balance Due NASD Regulation, Inc.	= \$	0.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures:

E. Daniel Grady, Chairperson
Public Arbitrator

Dated:

James C. Bylenga
Industry Arbitrator

Dated:

William D. Keller
William D. Keller
Public Arbitrator

May 10, 2000
Dated:

Date Stipulated Award served on the parties: _____
(For NASD Regulation, Inc. Use Only)

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Initial Filing Fee	= \$ 120.00
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Total Fees	= \$ 320.00
<u>Less payments</u>	= \$ 320.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

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<u>Forum Fees</u>	= \$ 200.00
Total Fees	= \$ 2,600.00
<u>Less payments</u>	= \$ 2,600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures:



E. Daniel Grady, Chairperson
Public Arbitrator

5-9-00
Dated: _____

James C. Bylenga
Industry Arbitrator

Dated: _____

William D. Keller
Public Arbitrator

Dated: _____

Date Stipulated Award served on the parties: _____
(For NASD Regulation, Inc. Use Only)