

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Cornerstone Securities Corp., (Claimant) vs. Russell Grigsby, David Randall Burch, David George Jamail, Kevin Burke (Respondents)
Kevin Burke (Cross Claimant) vs.

Case Number: 99-01000

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimant, Cornerstone Securities Corp. ("Claimant"): were represented by Tom Thomas, Esq. and Marc Culp, Esq.: Thomas & Culp, L.L.P., Dallas, Texas.

Respondent, Russell Grigsby ("Respondent Grigsby"), David Randall Burch ("Respondent Burch"), Respondent David George Jamail ("Respondent Jamail") were represented by Beth Ann Blackwood, Esq.: Beth Ann Blackwood Attorney at Law, Dallas, Texas.

Respondent Kevin Burke ("Respondent Burke"), Charles Hamilton, Esq. : French & Hamilton, Dallas, Texas.

Respondent Ed Naylor ("Respondent Naylor") and Respondents Kira Stadele ("Respondent Stadele"): Jennifer R. Poe, Crouch & Hallet, L.L.P. , Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: March 4, 1999.

Claimant, Cornerstone Securities Corp., signed the Uniform Submission Agreement: March 4, 1999 through its President Kenneth Johnson.

Statement of Answer, CrossClaim and Counterclaim filed by Respondents, Ed Naylor and Kira Stadele, on or about: June 21, 1999.

Respondent, Kira Stadele, signed the Uniform Submission Agreement: June 17, 1999.

The NASD has no record of a signed Uniform Submission Agreement from Respondent Ed Naylor.

Statement of Answer, Cross Claim against Kevin Burke, and Counterclaim against Claimant filed by Respondents, Russell Grigsby, David Burch and David Jamail on or about: June 21, 1999. Respondents David Burch and David Jamail Response to Kevin Burke's Crossclaims filed on or about June 1, 2000.

The NASD has no record of a signed Uniform Submission Agreement from Respondent The NASD has no record of a signed Uniform Submission Agreement from Respondent Russell Grigsby. The NASD has no record of a signed Uniform Submission Agreement from Respondent David Burch. The NASD has no record of a signed Uniform Submission Agreement from Respondent David Jamail.

Statement of Answer and Cross-Claim against Respondents David Burch and David Jamail filed by Respondent, Kevin Burke, on or about: May 30, 2000.

The NASD has no record of a signed Uniform Submission Agreement from Respondent Kevin Burke.

CASE SUMMARY

Claimant Cornerstone Securities Corp. asserted the following causes of action and requests for rulings: Claimant seeks a determination establishing that its equity program does not violate the usury laws, that Kevin Burke is entitled to no relief based upon his participation in that program, that Ed Naylor, Kira Stadele, Russell Grigsby, David Burch and David Jamail have no valid claim for indemnity or contribution against Claimant based upon Kevin Burke's claim and that Claimant is entitled to recover all costs and attorneys fees. The causes of action relate to Claimants employment of Respondents and the Claimant's alleged equity pledge program.

Unless specifically admitted in its Answer, Respondents David Burch, Russell Grigsby and David Jamail denied the allegations made in the Statement of Claim and asserted the following defenses: that these Respondents deny that Cornerstone is entitled to recovery of any costs fees or expenses from them in arbitration. Respondents David Burch, Russell Grigsby and David Jamail also asserted a Cross-Claim against Respondent Burke. These Respondents seek a determination that their participation in Claimant's program by covering Burke's margin calls did no violate in usury laws and that Burke is entitled to no relief or recovery from them based upon the transfers between Burke's account with Claimant. Respondents David Burch, Russell Grigsby and David Jamail also

asserted a Counterclaim against Claimant for indemnity and reimbursement should any claim of damages by Kevin Burke subject to the usury statute. Respondents David Burch and David Jamail denied the allegations in Kevin M. Burke's Cross-Claim.

Unless specifically admitted in its Answer, Respondent Kevin Burke denied the allegations made in the Statement of Claim and asserted the following defenses: that Claimants equity program was not lawful, that it entailed charging usurious interest to Burke and other customers of Claimant. Respondent Burke also asserted a Cross-Claim against Respondents Burch and Jamail as the recipient of the usurious interest payments should be found liable to Burke. In addition, Burch and Jamail should be estopped to now claim that these transactions were not "loans" and that the fees paid were not "interest."

Unless specifically admitted in its Answer, Respondents Ed Naylor and Kira Stadele denied the allegations made in the Statement of Claim and asserted the following defenses: that these Respondents deny that Cornerstone is entitled to recovery of any costs fees or expenses from them in arbitration. Respondents Ed Naylor and Kira Stadele also asserted a Cross-Claim against Respondent Burch. These Respondents seek a determination that they are entitled to compensation from Respondent Burch in addition to all fees and costs associated with the proceeding.

RELIEF REQUESTED

Claimant Cornerstone Securities Corp. requested:

| | |
|----------------------------|--------------------------------|
| Compensatory Damages | in excess of \$5,000,000.00 |
| Interest | unspecified |
| Attorneys' Fees | unspecified |
| Other Costs | unspecified |
| Other Monetary Relief: | unspecified |
| Other Non-Monetary Relief: | unspecified |

Respondents Burch, Grigsby Jamail requested:

| | |
|----------------------------|-------------|
| Compensatory Damages | unspecified |
| Punitive Damages | unspecified |
| Interest | unspecified |
| Attorneys' Fees | unspecified |
| Other Costs | unspecified |
| Other Monetary Relief: | unspecified |
| Other Non-Monetary Relief: | unspecified |

Respondents Burke requested:

| | |
|----------------------------|-------------|
| Compensatory Damages | unspecified |
| Punitive Damages | unspecified |
| Interest | unspecified |
| Attorneys' Fees | unspecified |
| Other Costs | unspecified |
| Other Monetary Relief: | unspecified |
| Other Non-Monetary Relief: | unspecified |

Respondents Naylor and Stadele requested:

| | |
|----------------------------|-------------|
| Compensatory Damages | unspecified |
| Punitive Damages | unspecified |
| Interest | unspecified |
| Attorneys' Fees | unspecified |
| Other Costs | unspecified |
| Other Monetary Relief: | unspecified |
| Other Non-Monetary Relief: | unspecified |

OTHER ISSUES CONSIDERED AND DECIDED

Initially, this matter was brought by Kevin Burke in the 134th Judicial District of Dallas County, Texas. Several Motions seeking or objecting to the Court proceeding were pursued by the parties, and ultimately the Court stayed arbitration.

On September 29, 1999 a memorandum and Opinion Order was issued from the Court of Appeals, Fifth District of Texas at Dallas, denying Kevin Burke's Petition for Writ of Mandamus, and vacating the stay order. On November 11, 1999 the panel conducted an initial telephonic conference call with the parties and set this matter for arbitration hearing.

The parties agree to pay additional honorarium to the panel for their deliberation time as the NASD does not typically issue honorariums for deliberation sessions. The parties further agreed to bear the cost of forum fees for the deliberation time equally. This deliberation fee is included, assessed to the parties equally, in the fee section of the award.

Respondent Russell Grigsby, Ed Naylor, Kira Stadele, David Burch, David Jamail and Kevin Burke did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and, having answered the claim, appeared and testified at the hearing are bound by the determination of the Arbitration Panel on all issues submitted.

Prior to the in person arbitration hearing of this matter, Respondents Ed Naylor and Kira Stadele settled with the Claimant Cornerstone Securities, Corporation and withdrew all claims. Therefore, the panel made no rulings as to these parties in this award.

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, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

- (1). That Respondent David Burch is liable for and shall pay Kevin Burke compensatory damages of \$203,605.00 (two hundred and three thousand, six hundred and five dollars);
- (2). That Respondent David Jamail is liable for and shall pay Kevin Burke compensatory damages of \$226, 395.00 (two hundred twenty six thousand three hundred ninety five dollars);
- (3). That Respondents David Burch and David Jamail are jointly and severally liable for and shall pay Kevin Burke attorneys' fees of \$200,000.00 two hundred thousand dollars. In making this award of attorneys' fees the panel reviewed and considered the pleadings, documents, case law and statutory authority, and all post-hearing briefs and determined that authority exists for this award:
- (4). That any and all other requests for relief not specifically addressed herein, including punitive damages, are hereby dismissed and denied in their entirety.

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 | = \$500.00 |
| Kevin Burke Counter claim/Cross claim filing fee | = \$500.00 |
| Russell Grigsby, David Burch and David Jamail's Counter Claim/Cross claim | = \$500.00 |

Ed Naylor and Kira Stadele's Counter claim/Cross claim = \$500.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firms is a party and the Respondent's former firms.

| | |
|-------------------------|--------------|
| Member surcharge | = \$3,600 |
| Pre-hearing process fee | = \$600.00 |
| Hearing process fee | = \$5,000.00 |

Adjournment Fees

Adjournments requested during these proceedings:

April of the year 2000, adjournment by parties David Burch, David Jamail and Russell Grigsby = \$1500.00

Forum Fees and Assessments

The Arbitration 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 a single arbitrator x \$300.00 | = \$300.00 |
| Pre-hearing conference: March 24, 2000 | 1 session |
| One (1) Pre-hearing session with Panel x \$1500.00 | = \$1500.00 |
| Pre-hearing conference: November 11, 1999 | 1 session |
| Eleven (11) Hearing sessions x \$1500.00 | = \$16,500.00 |
| Hearing Dates: May 5, 2000 | 1 sessions |
| June 19, 2000 | 2 sessions |
| June 20, 2000 | 2 sessions |
| June 21, 2000 | 2 sessions |
| June 22, 2000 | 2 sessions |
| June 23, 2000 | 2 sessions |
| Two (2) Deliberation session X 1500.00 | = \$3,000.00 |
| August 18, 2000 | 1 session |
| September 27, 2000 | 1 session |
| Total Forum Fees | = \$21,300.00 |

1. The Arbitration Panel has assessed \$21,300 of the forum fees jointly and severally to David Burch and David Jamail.

Fee Summary

1. Claimant, Cornerstone Securities Corp., be and hereby is solely liable for:

| | |
|-----------------------------|----------------------|
| Initial Filing Fee | = \$500.00 |
| Member Fees | = \$9,200.00 |
| Forum Fees | = \$0 |
| <u>Administrative Costs</u> | <u>= \$0</u> |
| Total Fees | = \$9,700.00 |
| <u>Less payments</u> | <u>= \$19,200.00</u> |
| Refund Due: | = \$9,500.00 |

2. Respondents, David Burch and David Jamail be and hereby are, jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| CrossClaim/Counterclaim Filing fees | = \$500.00 |
| Forum Fees: | = \$21,300.00 |
| <u>Administrative Costs</u> | <u>= \$ 0</u> |
| Total Fees | = \$21,800.00 |
| <u>Less payments</u> | <u>= \$ 0</u> |
| Balance Due NASD Regulation, Inc. | = \$21,800.00 |

3. Respondent Kevin Burke be hereby is solely liable for:

Forum Fees:

| | |
|-------------------------------------|---------------------|
| CrossClaim/Counterclaim Filing fees | = \$500.00 |
| Forum Fees: | = \$0 |
| <u>Administrative Costs</u> | <u>= \$0</u> |
| Total Fees | = \$500.00 |
| <u>Less payments</u> | <u>= \$2,000.00</u> |
| Refund Due: | = \$1500.00 |

4. Respondent, David Burch, be and hereby is solely liable for:

| | |
|-----------------------------------|---------------------|
| Adjournment Fee | = \$1,500.00 |
| <u>Less payments</u> | <u>= \$1,000.00</u> |
| Balance Due NASD Regulation, Inc. | = \$500.00 |

5. Respondents, Kira Stadele and Ed Naylor, be and hereby are jointly and severally liable for:

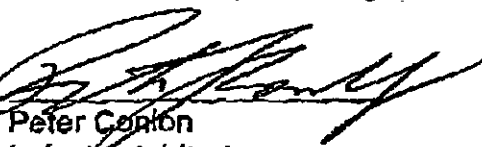
| | |
|------------------------------------|--------------------|
| Crossclaim/Counterclaim filing fee | = \$500.00 |
| <u>Less payments</u> | <u>= \$1250.00</u> |
| Refund Due | = \$750.00 |

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

Charles Guittard
Public Arbitrator, Presiding Chair

Signature Date


Peter Conlon
Industry Arbitrator

30 Oct 00
Signature Date

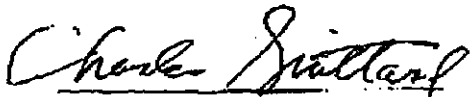
Dissenting Arbitrator's Signature

Arbitrator Crider dissents from the award. First with respect to any award or awards to Kevin Burke above \$12,000 total, and from the award to Kevin Burke of attorneys' fees.

Charles Crider
Public Arbitrator

Signature Date

Concurring Arbitrators' Signature



Charles Guittard
Public Arbitrator, Presiding Chair

10.26.00

Signature Date

Peter Conlon
Industry Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Arbitrator Crider dissents from the award. First with respect to any award or awards to Kevin Burke above \$12,000 total, and from the award to Kevin Burke of attorneys' fees.

Charles Crider
Public Arbitrator

Signature Date

Concurring Arbitrators' Signature

Charles Guittard
Public Arbitrator, Presiding Chair

Signature Date

Peter Conlon
Industry Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Arbitrator Crider dissents from the award. First with respect to any award or awards to Kevin Burke above \$12,000 total, and from the award to Kevin Burke of attorneys' fees.

Charles Crider

Charles Crider
Public Arbitrator

10/20/00

Signature Date