

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Robert C. Nowotny

Case No. 99-01240

Names of Respondents

J.P. Turner & Co., LLC
Argent Securities, Inc.
Marion Daniel Sherrill

REPRESENTATION OF PARTIES

For Claimant, Robert C. Nowotny ("Nowotny"), hereinafter referred to as "Claimant": J. Pat Sadler, Esq. of the law firm of Sadler & Hovdesven, P.C., Atlanta, Georgia.

For Respondents J.P. Turner & Co., L.L.C. ("J.P. Turner") and Marion Sherrill ("Sherrill"): Terry R. Weiss, Esq. and Timothy Mast, Esq. of the law firm of Long Aldridge & Norman, L.L.P. until August 24, 1999. Thereafter, Respondents J.P. Turner and Sherrill were represented by Jo L. Meeks, Esq. of the law firm of Pursley, Howell, Lowrey & Meeks, Atlanta, Georgia.

For Respondent Argent Securities, Inc. ("Argent"): Thomas R. Todd, Esq., Atlanta, Georgia until his withdrawal on April 12, 2000. Thereafter, Respondent Argent did not appear.

CASE INFORMATION

Statement of Claim filed on or about: March 16, 1999.

Claimant signed the Uniform Submission Agreement: April 5, 1999.

Answer and Defenses of Argent Securities, Inc. filed on or about: June 2, 1999.

Respondent Argent signed the Uniform Submission Agreement: June 2, 1999.

Answer and "Counterclaim" of Respondents J.P. Turner & Company, L.L.C. and Marion Sherrill filed on or about: June 2, 1999.

Respondent J.P. Turner signed the Uniform Submission Agreement: June 1, 1999.

Respondent Marion Sherrill signed the Uniform Submission Agreement: June 1, 1999.

CASE SUMMARY

Claimant asserted the following: Claimant was a retired individual who was investing his retirement savings. Misrepresentations and unsuitable advice were given to Claimant by

Respondents. Respondents did not adequately supervise the activity in the accounts and the representations being made to the client. As a result of such misconduct and violations of federal and state securities laws, Claimant sustained losses in his accounts. Most of the losses were realized in Claimant's IRA account which was a rollover from his former employer's 401K plan.

Unless specifically admitted in its Answer, Respondent Argent denied the allegations made in the Statement of Claim and asserted the following defenses: estoppel, waiver, ratification, adoption, Claimant's assumption of the risk and Claimant's contributory or comparative negligence.

Respondents J.P. Turner and Sherrill asserted the following: During the time that Claimant maintained his accounts at J.P. Turner, he participated fully in all decisions to buy, sell and/or hold securities. The purchases and sales of the securities in the accounts were consistent with Claimant's investment objectives and done with his prior authorization and approval. The Statement of Claim is an attempt by an experienced and informed investor to ask for a "money back guarantee" for losses incurred as a result of his own investment decisions.

RELIEF REQUESTED

At the evidentiary hearing, Claimant requested damages in the sum of \$89,772.61.

Respondent Argent requested an award in its favor and against Claimant on his claim, and in favor of Argent and against Claimant awarding Argent its attorneys' fees.

Respondents J.P. Turner and Sherrill requested that all claims brought against Respondents J.P. Turner and Sherrill be dismissed; that all forum fees be paid by Claimant; that all costs and disbursements of this action, including attorneys' fees, be awarded in favor of Respondents J.P. Turner and Sherrill; and, such other and further relief the panel deemed just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Argent did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Argent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The party present at the hearing has agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

On or about April 3, 2000, Claimant informed NASD Regulation, Inc. that he had entered

into a settlement agreement with Respondents Sherrill and J.P. Turner.

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:

Respondent Argent is liable and shall pay to Claimant the sum of \$89,772.61.

All other requests for relief not specifically addressed herein are 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

Member Fees

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

Member surcharge = \$1,500.00

Pre-hearing process fee = \$600.00

Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

No adjournments were requested during these proceedings.

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 Pre-hearing session with Panel x \$750.00 = \$750.00

Pre-hearing conference: October 5, 1999 1 session

One Hearing session x \$750.00 = \$750.00

Hearing Date: April 17, 1999 1 session

Total Forum Fees = \$1,500.00

The Panel has assessed the total forum fees of \$1,500.00 to Respondent Argent.

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.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

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

Respondent J.P. Turner be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondent Argent be and hereby is solely liable for:

Member Fees	= \$4,600.00
Forum Fees	= \$1,500.00
Total Fees	= \$6,100.00
<u>Less payments</u>	<u>= \$1,091.12</u>
Balance Due NASD Regulation, Inc.	= \$5,008.88

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

_____/s/
Randolph A. Mayer, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/
Hugh J. Moore, Jr., Esq.
Public Arbitrator

Signature Date

_____/s/_____
Joy L. Aldridge, Esq.
Industry Arbitrator

Signature Date

May 5, 2000
Date of Service (For NASD office use only)

The Panel has assessed the total forum fees of \$1,500.00 to Respondent Argent.

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Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

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Concurring Arbitrators' Signatures



 Randolph A. Mayer, Esq.
 Public Arbitrator, Presiding Chair



 Signature Date



 Hugh J. Moore, Jr., Esq.
 Public Arbitrator

 Signature Date

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<u>Less payments</u>	<u>= \$4,600.00</u>
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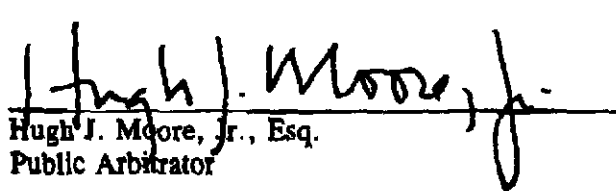
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Randolph A. Mayer, Esq.
Public Arbitrator, Presiding Chair

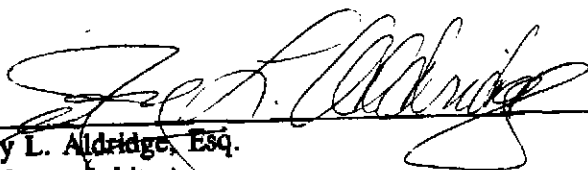
Signature Date



Hugh J. Moore, Jr., Esq.
Public Arbitrator



Signature Date


Joy L. Aldridge, Esq.
Industry Arbitrator

4-28-00
Signature Date

Date of Service (For NASD office use only)