

**STPULATED AWARD  
NASD REGULATION, INC.**

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In the Matter of the Arbitration Between

|                                   |   |                        |
|-----------------------------------|---|------------------------|
| DOUGLAS L. BRYANT and             | ) |                        |
| JANET C. BRYANT,                  | ) |                        |
|                                   | ) |                        |
| Claimants,                        | ) |                        |
|                                   | ) |                        |
| v.                                | ) | NASD Case No. 99-02719 |
|                                   | ) |                        |
| MIDWEST DISCOUNT BROKERS, INC.,   | ) |                        |
| TODD SUMAN, GARY MICHAEL DEWEESE, | ) |                        |
| DANA EDWARD PETERSON, and         | ) |                        |
| RICHARD TIMOTHY PIGG,             | ) |                        |
|                                   | ) |                        |
| Respondents.                      | ) |                        |

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**REPRESENTATION OF PARTIES**

Claimants, Douglas L. Bryant and Janet C. Bryant, hereinafter referred to as "Claimants": Joseph D. Sheppard, III, Carnahan, Evans, Cantwell & Brown P.C., located in Springfield, Missouri.

Respondents, Midwest Discount Brokers, Inc., (Midwest) Gary Michael DeWeese, (DeWeese) Dana Edward Peterson, (Peterson) Richard Timothy Pigg, (Pigg) and Todd Suman, (Suman) hereinafter collectively referred to as "Respondents": Anthony J. Durone, Esq., Berkowitz, Feldmiller, Stanton, Brandt, Williams & Shaw, LLP located in Kansas City, Missouri.

**CASE INFORMATION**

Claimants' Joint Statement of Claim against Respondents Midwest Discount Brokers, Inc. and Todd Suman on or about: June 11, 1999.  
Claimants' did not sign a Uniform Submission Agreement.

Joint Statement of Answer filed by Respondents Midwest Discount Brokers, Inc., and Todd Suman on or about August 31, 1999.  
Claimants filed the Joint First Amended Statement of Claim adding Respondents DeWeese, Peterson, and Pigg on or about November 22, 1999.

Statement of Answer and Motion to Dismiss Claimants' First Amended Statement of Claim was filed by Respondents DeWeese, Peterson, and Pigg on or about January 25, 2000.

Uniform Submission Agreement was signed by Respondent Midwest Discount Brokers, Inc. on August 20, 1999.

Uniform Submission Agreement was signed by Respondent Suman on August 24, 1999.

Uniform Submission Agreement was signed by Respondent DeWeese on January 24, 2000.

Uniform Submission Agreement was signed by Respondent Peterson on January 18, 2000.

Uniform Submission Agreement was signed by Respondent Pigg on January 24, 2000.

### **CASE SUMMARY**

Claimants asserted the following causes of action: excessive trading, breach of fiduciary duty, fraud, and failure to supervise. All allegations relate to Respondents' handling of Claimants' common stocks.

Unless specifically admitted in their Statement of Answer Respondent Midwest Discount Brokers, Inc., and Todd Suman denied each and every allegation contained in the Statement of Claim and asserted the following affirmative defense: Claimants are attempting to recoup losses they suffered as a result of their own investment decisions.

In Claimants' Amended Statement of Claim against Respondents DeWeese, Peterson, and Pigg, Claimants asserted the following causes of action: excessive trading, breach of fiduciary duty, negligence and misrepresentations.

In their Joint Statement of Answer Respondents denied all allegations in the Amended Statement of Claim and requested that all the claims against them be dismissed in their entirety.

### **RELIEF REQUESTED**

Claimants requested:

|                      |                |
|----------------------|----------------|
| Compensatory Damages | \$163,482.00   |
| Punitive Damages     | \$ unspecified |
| Interest             | \$ unspecified |
| Attorneys' Fees      | \$ unspecified |

Other Costs

\$ unspecified

Respondents requested that the Claims be dismissed in their entirety, with prejudice.

### **OTHER ISSUES CONSIDERED AND DECIDED**

In May of 2001, the parties entered into an agreement that the Respondents be dismissed with prejudice and that all reference to this matter be expunged from the CRD records of Respondents Todd Suman, Dana Edward Peterson, Gary Michael DeWeese, and Richard Timothy Pigg. The Claimants and the above mentioned Respondents have since filed a joint motion for expungement.

Claimants' PaineWebber did not file with NASD Dispute Resolution, Inc., a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

### **AWARD**

After considering the parties' submissions and agreements and without making any finding of fact or conclusions of law, the undersigned arbitrators enter the following award:

1. Respondents are dismissed from this matter with prejudice;
2. The Panel Recommends the expungement of all references to the above captioned arbitration from Respondents' Todd Suman, Dana Edward Peterson, Gary Michael DeWeese, Dana Edward Peterson and Richard Timothy Pigg registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents DeWeese, Suman, Peterson and Pigg must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees: and,
4. Any and all relief not specifically addressed herein is denied.

### **Fees**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$ 300.00

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 is the Respondent Midwest Discount Brokers Inc.

|                         |               |
|-------------------------|---------------|
| Member surcharge        | = \$ 1,500.00 |
| Pre-hearing process fee | = \$ 600.00   |
| Hearing process fee     | = \$ 2,500.00 |

Forum Fees and Assessments

The Panel has the authority to assess 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

|   |            |
|---|------------|
| One (1) Pre-hearing session with a single arbitrator x \$450.00 | = \$450.00 |
| Pre-hearing conference(s): May 19, 2000                         | 1 session  |

|  |              |
|--|--------------|
| One (1) Pre-hearing session(s) with Panel x \$1,125.00 | = \$1,125.00 |
| Pre-hearing conference(s): March 21, 2000              | 1 session    |

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|                  |              |
|------------------|--------------|
| Total Forum Fees | = \$1,575.00 |
|------------------|--------------|

1. The Panel has assessed \$787.50 of the forum fees to the Claimants Douglas L. Bryant and Janet Bryant, jointly and severally.
2. The Panel has assessed \$ 787.50 of the forum fees to the Respondents Midwest Discount Brokers.

Fee Summary

1. Claimants Douglas L. Bryant and Janet C. Bryant are jointly and severally liable for:

|  |               |
|--|---------------|
| Initial Filing Fee                             | = \$ 300.00   |
| Forum Fees                                     | = \$ 787.50   |
| Total Fees                                     | = \$ 1,087.50 |
| Less payments                                  | = \$ 1,425.00 |
| Balance refunded NASD Dispute Resolution, Inc. | = \$ 337.50   |

2. Respondent, Midwest Discount Brokers, Inc, are solely liable for:

|             |              |
|-------------|--------------|
| Member Fees | = \$ 4600.00 |
|-------------|--------------|

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|   |               |
|---|---------------|
| Forum Fees                                | = \$ 787.50   |
| Administrative Costs                      | = \$ 25.00    |
| Total Fees                                | = \$ 5,412.50 |
| Less Payments                             | = \$ 4,600.00 |
| Total Fees due to NASD Dispute Resolution | = \$ 812.50   |

All balances are due to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

|                       |   |                                    |
|-----------------------|---|------------------------------------|
| George T. Mehan Jr.   | - | Non- Public Arbitrator             |
| John Fox Arnold, Esq. | - | Public Arbitrator, Presiding Chair |
| Robert G. Bailey      | - | Non-Public Arbitrator              |

\_\_\_\_\_  
George T. Mehan, Jr.  
Non- Arbitrator, Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John Fox Arnold, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert G. Bailey  
Public Arbitrator

\_\_\_\_\_  
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)\_\_\_\_\_

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## 4. Respondents are jointly and severally liable for:

|   |             |
|---|-------------|
| Forum Fees                                | = \$ 787.50 |
| Administrative costs                      | = \$ 25.00  |
| <u>Less Payments</u>                      | = \$ 00     |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 812.50 |

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

George T. Mehan Jr.

John Fox Arnold, Esq.

Robert G. Bailey

Non-Public Arbitrator

Public Arbitrator, Presiding Chair

Non-Public Arbitrator

  
George T. Mehan, Jr.  
Non-Arbitrator, Arbitrator  
Signature Date

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John Fox Arnold, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Robert G. Bailey  
Public Arbitrator

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Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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| <u>Less Payments</u>                      | = \$ 00     |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 812.50 |

All balances are due to NASD Dispute Resolution, Inc.

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Non- Public Arbitrator

John Fox Arnold, Esq.

Public Arbitrator, Presiding Chair


Robert G. Bailey

Non-Public Arbitrator

George T. Mehan, Jr.

Non- Arbitrator, Arbitrator

Signature Date

  
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\_\_\_\_\_  
George T. Mehan, Jr.  
Non- Arbitrator, Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John Fox Arnold, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date,

  
\_\_\_\_\_  
Robert G. Bailey  
Public Arbitrator

4/18/02  
\_\_\_\_\_  
Signature Date

Date of Service (For NASD-Dispute Resolution office use only) \_\_\_\_\_