

Award

NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Robert Hooker, (Claimant) vs. Southwest Securities, Inc., SWS Financial Services, and Richard T. Kiesler (Respondents).

Case Number:

99-02750

Hearing Site:

Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Robert Hooker hereinafter referred to as "Claimant" was represented by Robert E. Lapin, Esq., Carrigan Lapin & Landa LLP, Houston, Texas.

Respondents, Southwest Securities, Inc., hereinafter referred to as "Southwest", Southwest Securities Financial Services, hereinafter referred to as "BTS" and Richard T. Kiesler, hereinafter referred to as "Kiesler" were represented by Will S. Montgomery, Esq., Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 17, 1999

Claimant signed the Uniform Submission Agreement: June 2, 1999

Statement of Answer filed by Respondents, Southwest, BTS and Kiesler, on or about: September 17, 1999

Respondent, Southwest, signed the Uniform Submission Agreement: July 28, 1999.

Respondent, BTS, signed the Uniform Submission Agreement: January 24, 2000.

Respondent, Kiesler, signed the Uniform Submission Agreement: February 18, 2000.

Southwest filed a Motion to Dismiss on: April 5, 2000.

CASE SUMMARY

Claimant asserted the following causes of action:

1. Kiesler, while acting within the course and scope of his agency with BTS and Southwest, represented that he possessed all the requisite experience and skill to properly invest on Claimant's behalf.

2. Kiesler induced Hooker to execute a New Account Form which Claimant executed in blank, upon Kaiser's instructions, and which Kiesler then used to make falsified entries. BTS and Southwest approved these forms without verifying the accuracy of the entries.
3. Claimant further alleges that he was induced to buy 5,000 shares of ODS, 16,600 shares of Objective Systems Integrators, 18,000 shares of AMD, and 38,800 shares of Phoenix Technology. These purchases resulted in the generation of commissions to Kiesler, BTS and Southwest in excess of \$45,000.00 and losses to Claimant in excess of 200,000.00
4. Claimant alleges that Kiesler and his supervisors were, at all relevant times, acting within the course and scope of their agency and/or employment with BTS.
5. Kiesler, BTS and Southwest were negligent.
6. Kiesler, BTS and Southwest committed fraud in order to generate commissions.
7. Kiesler, BTS and Southwest breached their fiduciary duty and their duty of good faith and fair dealing.
8. BTS and Southwest failed to properly supervise and monitor Kiesler.
9. All Respondents violated the New York Stock exchange "Know your Customer" Rule 405.

Respondents Kiesler, Southwest & BTS denied the allegations made in the Statement of Claim and asserted the following defenses: The doctrines of waiver, laches, and estoppel bar Claimant's recovery.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 500,000.00
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	

Respondents, Kiesler, Southwest & BTS
requested;

Attorneys' Fees	\$ Unspecified
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OTHER ISSUES CONSIDERED AND DECIDED

The Arbitration Panel granted Respondents', Kiesler, BTS & Southwest's Motion to Dismiss Claimant's causes of action due to the fact that claimant did not produce evidence of damages claimed.

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 the Panel has decided in full and final resolution of the issues submitted for determination as follows: The Panel granted Respondent's motion to Dismiss Claimant's causes of action due to the fact that claimant did not timely produce evidence and calculations of damages. In granting said motion, the Panel did not determine that Claimants's case is meritless. Thus the Panel dismisses without prejudice.

The Panel further orders each party to bear the costs of attorneys' fees, incidental expenses and expert witness fees.
Any and all relief not specifically addressed herein, including is 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	= \$300.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) (are) the Respondent's firms.

Member surcharge, Respondent, Southwest	= \$1,500.00
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Member surcharge, Respondent, BTS	= \$1,500.00
Pre-hearing process fee, Respondent Southwest	=\$600.00
Pre-hearing process fee, Respondent, BTS	=\$600.00
Hearing process fee, Respondents, Southwest	=\$2500.00
Hearing Process fee respondent, BTS	= \$2500.00

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, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing Conferences with Panel

Hearing Dates;	January 13, 2000	
	May 24, 2000	= \$ 2,250.00

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Date:	August 16, 2000	2 sessions
	August 17, 2000	2 sessions

Total Forum Fees

1. The Panel has assessed \$5062.00 of the forum fees to Claimant.
2. The Panel has assessed \$281.25 of the forum fees to, Respondent, Kiesler.
3. The Panel has assessed \$281.25 of the forum fees to Respondent, BTS.
4. The Panel has assessed \$1,125.00 of the forum fees to Respondent, Southwest.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5062.50
Less payments	= \$ 1125.00
Balance Due NASD Regulation, Inc.	= \$ 700.00

2. Respondent, BTS, be and hereby is solely liable for:

Filing Fee	= \$ 0
Member Fees	= \$ 1,500.00
Pre-hearing processing fee	= \$ 600.00
Hearing processing fee	= \$ 2500.00
Forum Fees	= \$ 281.25

Total Fees	= \$ 4881.25
<u>Less payments</u>	<u>= \$ 4600.00</u>
Balance Due NASD Regulation, Inc.	= \$ 281.25

4. Respondents, Southwest, be and hereby are solely liable for:

Filing Fee	= \$ 0
Member Fees	= \$ 15,00.00
Pre-hearing processing fee	= \$ 600.00
Hearing processing fee	= \$ 2500.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 5,725.00
<u>Less payments</u>	<u>= \$ 4600.00</u>
Balance Due NASD Regulation, Inc.	= \$ 1,125.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

Anthony W. Kashouty
Public Arbitrator, Presiding Chair

Signature Date

Thomas D. Nagle
Public Arbitrator

Signature Date

Morris Rubin
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

5 of 5

NASD Dispute Resolution, Inc.
Arbitration No. 99-02750

Total Fees	= \$ 4881.25
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Hearing processing fee	= \$ 2500.00
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10-17-00
Signature Date

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5085
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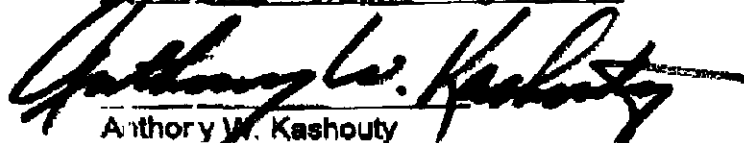
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Member Fees	= \$ 15,00.00
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