

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Olivia Rhoades, (Claimant) vs. Cindy R. Kolb d/b/a Kolb Investments, Patterson Icenogle, Inc., Southwest Securities, Inc., Mark Douglas Icenogle, Donald A. Buchholz, Sabra Lougene Hawkings, David Meyer Glatstein, Brian Whitt, S.W.S. Financial Services, and Bette J. Medley, (Respondents).

Case Number:
99-02825

Hearing Site:
Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Olivia Rhoades, hereinafter referred to as "Claimant": Lonnie E. Chunn, Esq., Chunn & Pilcher, P.L.L.C., San Antonio, Texas.

Respondent, Cindy Kolb d/b/a Kolb Investments ("Kolb"): *Pro Se*.

Respondent, Patterson Icenogle, Inc. ("Patterson"): Mark Douglas Icenogle, Pensacola, Florida.

Respondent, Southwest Securities, Inc. ("Southwest"): Corbet F. Bryant, Jr., Esq., Carrington Coleman Sloman & Blumenthal, L.L.P., Dallas, Texas.

Respondent, Mark Douglas Icenogle ("Icenogle"): *Pro Se*.

Respondent, Donald A. Buchholz ("Buchholz"): *Pro Se*.

Respondent, Sabra Lougene Hawkings ("Hawkings"): Corbet F. Bryant, Jr., Esq., Carrington Coleman Sloman & Blumenthal, L.L.P., Dallas, Texas.

Respondent, David Meyer Glatstein ("Glatstein"): *Pro Se*.

Respondent, Brian Whitt ("Whitt"): Michael S. Linscott, Esq., McKinney & Stringer, P.C., Tulsa, Oklahoma.

Respondent, SWS Financial Services ("SWS"): Corbet F. Bryant, Jr., Esq., Carrington Coleman Sloman & Blumenthal, L.L.P., Dallas, Texas.

Respondent, Bette J. Medley ("Medley"): Corbet F. Bryant, Jr., Esq., Carrington Coleman Sloman & Blumenthal, L.L.P., Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 30, 1999
Claimant signed the Uniform Submission Agreement: June 17, 1999
Statement of Answer not filed by Respondent, Kolb.
Respondent, Kolb, did not sign the Uniform Submission Agreement.
Statement of Answer filed by Respondent, Southwest, on or about:
August 24, 1999.
Respondent, Southwest, signed the Uniform Submission Agreement:
June 6, 1999
Statement of Answer not filed by Respondent, Patterson.
Respondent, Patterson, did not sign the Uniform Submission Agreement.
Statement of Answer not filed by Respondent, Icenogle.
Respondent, Icenogle, signed the Uniform Submission Agreement:
January 24, 2000.
Statement of Answer filed by Respondent, Buchholz, on or about:
August 24, 1999.
Respondent, Buchholz, signed the Uniform Submission Agreement: July 9, 1999.
Statement of Answer filed by Respondent, Hawkings, on or about:
August 24, 2000.
Respondent, Hawkings, signed the Uniform Submission Agreement:
July 13, 1999.
Statement of the Answer filed by Respondent, Glatstein, on or about:
August 24, 1999.
Respondent, Glatstein, did not sign the Uniform Submission Agreement.
Statement of the Answer filed by Respondent, Whitt, on or about:
August 24, 1999.
Respondent, Whitt, signed the Uniform Submission Agreement: July 19, 1999.
Statement of the Answer filed by Respondent, SWS, on or about:
August 24, 1999.
Respondent, SWS, signed the Uniform Submission Agreement: August 16, 1999.
Statement of Answer filed by Respondent, Medley, on or about: August 24, 1999.
Respondent, Medley, signed the Uniform Submission Agreement:
August 3, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: Violation of the securities laws, misrepresentation, churning, violation of the NASD rules, failure to supervise, breach of contract, negligence, breach of fiduciary duty, and conversion.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$127,526
Punitive Damages	\$250,000
Interest	\$43,654.87
Attorneys' Fees	\$0
Other Costs	\$0
Other Monetary/Non-Monetary Relief if any:	None Requested

Respondents requested:

Compensatory Damages	\$0
Punitive Damages	\$0
Interest	\$0
Attorneys' Fees	\$0
Other Costs	\$0
Other Monetary/Non-Monetary Relief if any:	None Requested

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Buchholz, moved for Dismissal of Claims on November 17, 2000.

Respondent, Buchholz, dismissed without prejudice by panel.

Respondent, Glatstein, moved for Dismissal of Claims on November 17, 2000.

Respondent, Glatstein, dismissed without prejudice by panel.

Respondent, Whitt, moved for Dismissal of Claims on February 22, 2000.

Respondent, Whitt, dismissed without prejudice by panel on May 30, 2000.

Respondent, Icenogle, moved for Dismissal of Claims on February 7, 2000.

Respondent, Icenogle, dismissed without prejudice by panel on May 30, 2000.

At the close of Claimant's case-in-chief, Respondents, Hawkings, Medley, and SWS moved to dismiss alleging that the Claimant failed to make a Prima Facie case against them. Respondents, Hawkings and Medley further moved that the complaint be expunged from their NASD records. Claimant agreed with the motion concerning Respondent Medley, but opposed the motion concerning Respondents Hawkings and SWS. The Panel granted the motion of Respondents Medley and Hawkings, including the expungement of this

complaint from the record of each with the NASD. Further, the panel denied the motion to dismiss of SWS.

The attorney representing the Claimant and the attorney representing the Respondent agreed and stipulated that the sum of \$45,000 was fair and reasonable for the panel to award as attorneys' fees for the Claimant and for the Respondents should the panel elect to award attorneys' fees to any participant.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant is awarded jointly and severally against Cindy R. Kolb and Patterson Icenogle, Inc. the sum of \$116,616.91, which includes interest. Further, Claimant is awarded attorneys' fees in the amount of \$45,000 jointly and severally against Cindy R. Kolb, Patterson Icenogle, Inc. and Southwest Securities, Inc. Interest on these sums begins to accrue on September 1, 2000, at the rate of 8% per annum.
2. Claimant is also awarded against Southwest Securities, Inc. the sum of \$17,150.00, which includes interest. Interest on this sum, as well as the aforementioned attorneys' fees, begins to accrue on September 1, 2000 at the rate of 8% per annum.
3. Based on the defamatory nature of the information in the Central Registration Directory (CRD), the panel further orders the expungement of information from the CRD of the existence of claim in this matter for the following named Respondents :

Donald A. Buchholz;
Sabra Lougene Hawkings;
David Meyer Glatstein;
Bette J. Medley; and
Brian Whitt.
4. Any and all relief not specifically addressed herein, including punitive damages, 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

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 are Southwest Securities, Inc., Patterson Icenogle, Inc., and SWS Financial Services.

Member surcharge (Southwest)	= \$1500
Member surcharge (Patterson)	= \$1500 (Waived)
Member surcharge (SWS)	= \$1500
Pre-hearing process fee (Southwest)	= \$600
Pre-hearing process fee (Patterson)	= \$600 (Waived)
Pre-hearing process fee (SWS)	= \$600
Hearing process fee (Southwest)	= \$2500
Hearing process fee (Patterson)	= \$2500 (Waived)
Hearing process fee (SWS)	= \$2500

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 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 Arbitration Panel x \$1,125 = \$1,125
Pre-hearing conference: January 18, 2000 1 session

Six (6) Hearing sessions x \$1125 = \$6,750
Hearing Dates: August 21, 2000
August 22, 2000
August 23, 2000

Total Forum Fees = \$7,875

1. The Arbitration Panel assessed \$3937.50 of the forum fees to Claimant.
2. The Arbitration Panel assessed \$1,968.75 of the forum fees to Respondent Southwest.

3. The Arbitration Panel assessed \$1,968.75 of the forum to Respondent SWS.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,937.50

Total Fees	= \$4,237.50
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50

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

Member and Process Fees	= \$4,600.00
Forum Fees	= \$1,968.75

Total Fees	= \$6,568.75
<u>Less payments</u>	= \$4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,968.75

3. Respondent, Patterson, be and hereby is solely liable for:

Member Surcharge	= \$1500 (Waived)
Pre-hearing process fee	= \$ 600 (Waived)
Hearing process fee	= \$2500 (Waived)
Forum Fees	= \$0

Total Fees	= \$4600 (Waived)
<u>Less payments</u>	= \$0
Balance Due NASD Dispute Resolution, Inc.	= \$0

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

Member and Process Fees	= \$4,600
Forum Fees	= \$1,968.75

Total Fees	= \$6,568.75
<u>Less payments</u>	= \$2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,468.75

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature(s)

Concurring Arbitrators' Signature(s)

Raymond C. Kerr
Public Arbitrator, Presiding Chair

10/31/00
Signature Date

Donald E. West
Public Arbitrator

Signature Date

W. Merrill Glasgow
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Concurring Arbitrators' Signature(s)

Raymond C. Kerr
Public Arbitrator, Presiding Chair



Donald E. West
Public Arbitrator

W. Merrill Glasgow
Public Arbitrator

Date of Service (For NASD office use only)

Signature Date

11-01-00

Signature Date

Signature Date

10/25/00 WED 12:48 FAX

NASD REGULATION

009

Raymond C. Kerr
Public Arbitrator, Presiding Chair

Signature Date

Donald E. West
Public Arbitrator

Signature Date



W. Merrill Glasgow
Public Arbitrator

10/26/00

Signature Date

Date of Service (For NASD office use only)