

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Jasbir Singh, Jaswinder Kaur, and Mohan Singh, Claimants v. Thomas F. White & Co., Inc.,  
Sunil De Silva, and Round Hill Securities, Inc., Respondents

Case Number: 99-04203

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

David C. Hinshaw, Esq.  
Hinshaw & Taurino, LLP  
Los Angeles, California

For Respondent Thomas F. White & Co., Inc.:

Michael G. Bolgatz, Esq.  
Thomas F. White &  
Company, Inc.  
San Francisco, California

For Respondent Sunil De Silva:

Eric Kingsley, Esq.  
Law Offices of Eric Kingsley  
Encino, California

For Respondent Round Hill Securities, Inc.:

Thomas Rittenburg, Esq.  
Lewis, D'Amato, Brisbois &  
Bisgaard  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: September 10, 1999

Amendment to the Statement of Claim filed: June 30, 2000

Claimant Jasbir Singh's Uniform Submission Agreement signed: November 3, 1999

Claimant Jaswinder Kaur's Uniform Submission Agreement signed: November 3, 1999

Claimant Mohan Singh's Uniform Submission Agreement signed: November 3, 1999

Statement of Answer filed by Respondent Thomas F. White & Co., Inc.: February 9, 2000

Joint Statement of Answer filed by Respondents Round Hill Securities, Inc. and Sunil De Silva:  
November 15, 1999

Answer to Amended Statement of Claim filed by Respondent Round Hill Securities, Inc.:  
August 15, 2000

Respondent Thomas F. White & Co., Inc.'s Uniform Submission Agreement signed: February 7,  
2000

Respondent Sunil De Silva's Uniform Submission Agreement signed: December 22, 1999

### **CASE SUMMARY**

Claimants alleged breach of fiduciary duty, conversion, breach of express and implied contract, violation of industry rules, churning, and failure to supervise. The case involved the Respondents' alleged failure to repay equity borrowed from Claimants, Respondents' conversion of equity in the Reliance Group Fund, and Respondents' overtrading of Claimants' equity accounts. In their Amended Statement of Claim, Claimants withdrew the claim of failure to repay equity.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested restitution damages in the sum of \$320,000.00 for the cash delivered to Respondents, compensatory damages in the sum of \$60,000.00 for the cost of commissions generated, and compensatory damages in the sum of \$25,000.00 for the cost of margin interest charges. Claimants also requested lost opportunity costs, appreciation costs, interest, attorney's fees, and punitive damages in the sum of \$500,000.00.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and sought an award for costs and attorney's fees.

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

Respondent Round Hill Securities, Inc. did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

On June 30, 2000, Claimants filed a Motion to Amend the Statement of Claim.

On January 11, 2001, the Panel granted Claimants' Motion to Amend the Statement of Claim.

On January 12, 2001, Claimants dismissed with prejudice all claims against Respondent Round Hill Securities, Inc. and dismissed with prejudice all claims against Respondent Sunil De Silva for the period of time he was employed at Round Hill Securities, Inc.

On February 9, 2001, Claimants dismissed without prejudice their remaining claims against Respondent Sunil De Silva, except for those claims where he acted as an agent for Thomas F. White & Co., Inc.

On February 12, 2001, Sunil De Silva failed to appear as a witness despite having been subpoenaed by Respondent Thomas F. White & Co., Inc.

The parties 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, testimony, evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Thomas F. White & Co., Inc. is liable to and shall pay Claimant Mohan Singh the sum of \$20,000.00 in compensatory damages.
- 2) Respondent Thomas F. White & Co., Inc. is liable to and shall pay Claimant Mohan Singh interest on the sum of \$20,000.00 at the rate of 10% per annum calculated from September 10, 1999 until paid in full.
- 3) Respondent Thomas F. White & Co., Inc. is liable to and shall pay Claimants Jasbir Singh and Jaswinder Kaur the sum of \$75,000.00 in compensatory damages.
- 4) Respondent Thomas F. White & Co., Inc. is liable to and shall pay Claimants Jasbir Singh and Jaswinder Kaur interest on the sum of \$75,000.00 at the rate of 10% per annum calculated from September 10, 1999 until paid in full.

- 5) Respondent Sunil De Silva is liable to and shall pay Claimant Mohan Singh the sum of \$15,000.00 in compensatory damages. This award is based on Respondent's conduct while employed at Thomas F. White & Co., Inc.
- 6) Respondent Sunil De Silva is liable to and shall pay Claimant Mohan Singh interest on the sum of \$15,000.00 at the rate of 10% per annum calculated from September 10, 1999 until paid in full. This award is based on Respondent's conduct while employed at Thomas F. White & Co., Inc.
- 7) Respondent Sunil De Silva is liable to and shall pay Claimants Jasbir Singh and Jaswinder Kaur the sum of \$40,000.00 in compensatory damages. This award is based on Respondent's conduct while employed at Thomas F. White & Co., Inc.
- 8) Respondent Sunil De Silva is liable to and shall pay Claimants Jasbir Singh and Jaswinder Kaur interest on the sum of \$40,000.00 at the rate of 10% per annum calculated from September 10, 1999 until paid in full. This award is based on Respondent's conduct while employed at Thomas F. White & Co., Inc.
- 9) Each party shall bear its own costs, including attorney's fees.
- 10) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. The member firm Thomas F. White & Co., Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

The member firm Round Hill Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

(4) Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session = \$ 1,800.00

Pre-hearing conferences:	November 9, 2000	2 sessions
	November 14, 2000	1 session
	November 28, 2000	1 session

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00

Pre-hearing conferences:	August 15, 2000	1 session
	January 9, 2001	1 session

(8) Hearing sessions @ \$1,200.00/session = \$ 9,600.00

Hearings:	February 12, 2001	2 sessions
	February 13, 2001	2 sessions
	February 14, 2001	2 sessions
	February 15, 2001	2 sessions

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<b>Total Forum Fees</b>	<b>= \$ 13,800.00</b>
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1. The Panel assessed \$ 150.00 of the forum fees jointly and severally to Claimants Jasbir Singh, Jaswinder Kaur, and Mohan Singh.
2. The Panel assessed \$ 12,000.00 of the forum fees to Respondent Thomas F. White & Co., Inc.
3. The Panel assessed \$ 750.00 of the forum fees to Respondent Round Hill Securities, Inc.
4. The Panel assessed \$ 900.00 of the forum fees to Respondent Sunil De Silva.

### **Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

Respondent Thomas F. White & Co., Inc. requested 92 photocopies @ \$.50/page:	= \$ 46.00
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Claimants requested 16 photocopies @ \$.50/page:	= \$ 8.00
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Claimants' first international phone-call to India = \$11.96

Claimants' second international phone-call to India = \$11.96

**Fee Summary**

1. Claimants, Jasbir Singh, Jaswinder Kaur, and Mohan Singh, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 150.00
<u>Administrative Costs</u>	<u>= \$ 31.92</u>
Total Fees	= \$ 556.92
<u>Less Payments</u>	<u>=(1,575.00)</u>
<b>Refund Due Claimant</b>	<b>= \$(1,018.00)</b>

2. Respondent, Thomas F. White & Co., Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Forum Fees	= \$12,000.00
<u>Administrative Costs</u>	<u>= \$ 46.00</u>
Total Fees	= \$18,146.00
<u>Less Payments</u>	<u>=(6,100.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$12,046.00</b>

3. Respondent, Round Hill Securities, Inc. is charged with the following fees and costs:


Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 6,850.00
<u>Less Payments</u>	<u>=(2,600.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 4,250.00</b>

4. Respondent, Sunil De Silva is charged with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 900.00</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 900.00</b>

All balances are payable to NASD Dispute Resolution, Inc. and are to be paid immediately upon the receipt of the award by the parties pursuant to Rule 10330(g) of the Code.

Concurring Arbitrators' Signatures

  
Terry A. O'Connell  
Chair, Public Arbitrator

4-17-01  
Signature Date

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Thornton V. Allen, Jr.  
Public Arbitrator

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

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Curtis H. Baer  
Non-Public Arbitrator

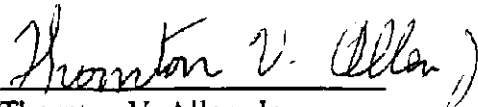
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Signature Date

4-24-01  
Date of Service

**Concurring Arbitrators' Signatures**

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Terry A. O'Connell  
Chair, Public Arbitrator

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

  
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Thornton V. Allen, Jr.  
Public Arbitrator

APRIL 17, 2001  
Signature Date

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Curtis H. Baer  
Non-Public Arbitrator

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

4-24-01  
Date of Service

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Terry A. O'Connell  
Chair, Public Arbitrator

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Signature Date

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Thornton V. Allen, Jr.  
Public Arbitrator

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

Curtis H. Baer  
Curtis H. Baer  
Non-Public Arbitrator

04/12/01  
Signature Date

A-24-01  
Date of Service