

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

---

In the Matter of the Arbitration Between

Name of Claimant

Carol Horecky

Case No. 99-04514

Names of Respondents

Charles Ronnie Montou  
Ronnie Montou & Associates  
Charles Dow Digh, III  
Securities America, Inc.

---

**REPRESENTATION OF PARTIES**

For Carol Horecky, hereinafter referred to as "Claimant": Randal L. Menard, Esq., Lafayette, LA.

For Respondent Charles Ronnie Montou ("Montou") and Ronnie Montou & Associates ("RMA"): Jack M. Alltmont, Esq. of Sessions, Fishman & Nathan, L.L.P., New Orleans, LA.

Respondent Charles Dow Digh, III ("Digh") did not appear.

For Respondent Securities America, Inc. ("SAI"): Stephen H. Kupperman, Esq. and Keith B. Hall, Esq. of Stone, Pigman, Walther, Wittman & Hutchinson, L.L.P., New Orleans, LA.

**CASE INFORMATION**

Statement of Claim filed on or about: October 5, 1999.

Claimant signed the Uniform Submission Agreement: September 10, 1999.

Statement of Answer filed by Respondents Montou and RMA on or about: January 21, 2000.

Respondent Montou signed the Uniform Submission Agreement: January 4, 2000.

Respondent RMA signed the Uniform Submission Agreement: January 4, 2000.

Respondent Digh did not file a Statement of Answer.

Respondent Digh did not file an executed Uniform Submission Agreement.

Response to Statement of Claim filed by Respondent SAI on or about: January 27, 2000.

Respondent SAI signed the Uniform Submission Agreement: December 29, 1999.

**CASE SUMMARY**

Claimant asserted the following causes of action: fraud; deception; unauthorized trading; and, excessive trading/churning. The causes of action relate to the purchase of unspecified

security products.

Unless specifically admitted in their Answer, Respondents Montou and RMA denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent SAI denied the allegations made in the Statement of Claim and asserted various defenses including ratification, waiver and estoppel.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$192,828.00.

Respondents Montou and RMA requested dismissal of the Statement of Claim.

Respondent SAI requested dismissal of the Statement of Claim.

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

Respondent Digh did not appear in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators determined that Respondent Digh 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").

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

The parties present at the hearing 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, 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 Montou is liable and shall pay to Claimant damages in the sum of \$2,193.00 representing reimbursement of lost interest.

Respondents Montou and RMA are liable, jointly and severally, and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid to NASD Dispute Resolution, Inc. by the Claimant.

Claimant's claims against Respondent SAI are dismissed, with prejudice:

Claimant's claims against Respondent Digh are dismissed, without prejudice.

Respondents Montou and RMA engaged in fraud and deception against Claimant, however, Claimant did not suffer any monetary damages. Therefore, no monetary damages are awarded on said claims.

Respondent Montou failed to follow Claimant's instruction to sell securities in sufficient quantities to place \$60,000.00 cash into a money market fund. However, Claimant was not damaged by the trading activities at issue in this matter. Further, all of the trading activities were ratified by Claimant.

Claimant's claims against Respondents Montou and RMA for unauthorized trading and churning are dismissed, with prejudice.

Respondents Montou and RMA are liable, jointly and severally, and shall pay to Claimant her reasonable attorneys' fees in the sum of \$8,000.00 plus costs in the sum of \$430.45.

Respondents Montou, RMA, and SAI are responsible for their respective attorneys' fees and costs.

All other relief requests not specifically addressed herein are 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(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 is a party.

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

#### **Adjournment Fees**

Adjournments requested during these proceedings:

October 12 and 13, 2000, adjournment by Respondents Montou and RMA	= \$1,125.00
--	--------------

### **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 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 (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: May 30, 2000 1 session	
Three (3) Hearing sessions x \$1,125.00	= <u>\$3,375.00</u>
Hearing Dates: March 15, 2001 2 sessions	
March 16, 2001 1 session	
Total Forum Fees	= \$4,500.00

The Panel has assessed the total forum fees of \$4,500.00 jointly and severally to Respondents Montou and RMA.

### **Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Total Fees	= \$300.00
<u>Less payments</u>	<u>= \$300.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent SAI 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 Dispute Resolution, Inc.	= \$0.00

Respondents Montou and RMA be and hereby are jointly and severally solely liable for:

Adjournment Fee	= \$1,125.00
Forum Fees	= \$4,500.00
Total Fees	= \$5,625.00
<u>Less payments</u>	<u>= \$0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$5,625.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

**Concurring Arbitrators' Signatures**

/s/

\_\_\_\_\_  
William B. Miller  
Industry Arbitrator, Presiding Chair

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

/s/

\_\_\_\_\_  
Cynthia Lee Traina  
Public Arbitrator

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

/s/

\_\_\_\_\_  
Simeon B. Reimonenq, Jr., Esq.  
Public Arbitrator

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

\_\_\_\_\_  
June 8, 2001

Date of Service (For NASD-DR office use only)

**Concurring Arbitrators' Signatures**



William B. Miller  
Industry Arbitrator, Presiding Chair



Signature Date

---

Cynthia Lee Traina  
Public Arbitrator

---

Signature Date

---

Simeon B. Reimonenq, Jr., Esq.  
Public Arbitrator

---

Signature Date

---

Date of Service (For NASD-DR office use only)

Concurring Arbitrators' Signatures

\_\_\_\_\_  
William B. Miller  
Industry Arbitrator, Presiding Chair

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

  
Cynthia Lee Traina  
Public Arbitrator

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

\_\_\_\_\_  
Simeon B. Reimonenq, Jr., Esq.  
Public Arbitrator

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

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


Concurring Arbitrators' Signatures

\_\_\_\_\_  
William B. Miller  
Industry Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Cynthia Lee Traina  
Public Arbitrator

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

  
\_\_\_\_\_  
Simeon B. Reimonenq, Jr., Esq.  
Public Arbitrator

6/4/01  
\_\_\_\_\_  
Signature Date

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