

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

---

In the Matter of the Arbitration Between

Name of Claimants

James E. Deady and James E. Deady Advertising, Inc.  
401(k) Profit Sharing Plan and Trust

Case No. 99-04779

Name of Respondents

J.C. Bradford & Co., Branch Cabell & Co., Inc.,  
Bernard A. Davey, III, Martin J. Bannon, III,  
Read M. Northen, Jr. and Andrew L. May

---

Representation of Parties

Claimants James E. Deady ("Mr. Deady") and James E. Deady Advertising, Inc. 401(k) Profit Sharing Plan and Trust (the "Deady Profit Sharing Plan") (collectively "Claimants") were represented by Attorney Mark J. Krudys, Esquire of Mark J. Krudys, PLC, Richmond, Virginia

Respondents J.C. Bradford & Co. ("Bradford") (succeeded in this matter by PaineWebber Incorporated, as its acquiror and successor entity), Bernard A. Davey, III ("Davey"), Martin J. Bannon, III ("Bannon"), Read M. Northen, Jr. ("Northen") and Andrew L. May ("May") (Bradford, Davey, Bannon, Northen and May are collectively referred to herein as the "Bradford Parties") were represented by Donald S. Davidson, Esquire of PaineWebber Incorporated, Weehawken, New Jersey, and Jeffrey H. Gray, Esquire of Willcox & Savage, P.C., Virginia Beach, Virginia.

Respondent Branch Cabell & Co. ("Branch Cabell") was represented by James A. Murphy, Esquire and Harris L. Kay, Esquire, of LeClair Ryan, Richmond, Virginia.

### Case Information

- The Statement of Claim against Bradford, Davey and Branch Cabell was filed on October 21, 1999.
- Claimants signed the Uniform Submission Agreement on October 21, 1999.
- Bradford and Davey filed their Answer to the Statement of Claim on February 23, 2000.
- Branch Cabell filed its Answer on February 22, 2000.
- The Amended Statement of Claim against all of the current respondents was filed on June 27, 2000.
- The Bradford parties filed their response to the Amended Statement of Claim on or about July 28, 2000.
- Branch Cabell filed no new response to the Amended Statement of Claim.
- The various respondents have signed the Uniform Submission Agreement on various dates, according to their involvement in this case.

### Case Summary

In the Amended Statement of Claim, claimants asserted the following causes of action: breach of fiduciary duty, unsuitable recommendations, failure to investigate appropriateness of investments, breach of contract, failure to supervise and fraud. The causes of action against the Bradford Parties relate to losses in the claimants' accounts while claimants maintained those accounts with broker Davey at Bradford. The claims against Branch Cabell related to losses in claimants' account after claimants transferred their accounts to that firm, following respondent Davey's transfer of his employment from Bradford to Branch Cabell.

The Bradford Parties admitted that claimants maintained accounts at Bradford during the time in question and that claimants subsequently transferred those accounts to Branch Cabell, but otherwise denied the claims in the Amended Statement of Claim. Moreover, the Bradford Parties asserted that the claims were false, made in bad faith and without a factual basis, and for an improper purpose. As a result, the Bradford Parties sought an award of costs and attorney's fees in their favor.

Moreover, respondent May, who was employed in Bradford's research department in Nashville, Tennessee, at all times in question, asserted that he never met Mr. Deady or heard of either claimant prior to claimants' filing of the Amended Statement of Claim which added May as a respondent.

Respondent Northen asserted that, while he believed he had met Mr. Deady on one occasion and while he worked in the same Bradford office in which claimants maintained their accounts at one time, he never served as a broker for claimants, never provided any advice to claimants or participated in any way in the handling of claimants' accounts and otherwise had no relationship whatsoever with the claimants.

Respondent Bannon asserted that he never handled claimants' accounts as a broker, but served as branch manager of the Bradford office where claimants' accounts were maintained for a period of time. Mr. Bannon asserted that, contrary to the allegations in the Statement of Claim, Mr. Deady called the Bradford office with great frequency and was fully apprised at all times of the status of his accounts. Moreover, Mr. Bannon asserted that he (Bannon) advised Mr. Deady on a number of occasions (both verbally and in writing) that Mr. Deady should pursue less risky investment strategies in his accounts. Mr. Bannon asserted that Mr. Deady repeatedly ignored this advice. A more detailed discussion of the positions of Messrs. May, Northen and Bannon appears in a separate memorandum and in affidavits submitted in support of these respondents' request for expungement of this claim from their records. As noted below, claimants join in the request for an expungement of this claim from the records of respondents May, Northen, and Bannon.

Branch Cabell admitted that the accounts in question were transferred to it from Bradford, but otherwise denied the claims in the Amended Statement of Claim. Branch Cabell noted that the account was virtually dormant in the eight months that Deady held the account at Branch Cabell. Branch Cabell sought an award of costs, fees and expenses in its favor.

Claimants dismissed Branch Cabell and, thereafter, the broker, Davey, from this action without any payment by one party to the other. Accordingly, Branch Cabell and Davey have already been dismissed from this action.

In addition, claimants have agreed to dismiss respondents May, Northen, and Bannon from this action without any payment by one party to another. May, Northen, and Bannon remain in this action for the sole purpose of seeking an expungement of this matter from their CRD records, via this Stipulated Award.

Respondent PaineWebber, as successor to J.C. Bradford, is paying an amount in settlement to Claimants.

### RELIEF REQUESTED

Claimants requested the following damages:

Compensatory Damages	\$300,000, together with "return of all commissions, mark-ups, mark-downs, margin interest and other profits that respondents realized."
Interest	Prejudgment interest at the rate of 9%
Punitive Damages	Amount unspecified
Attorneys' Fees	Amount unspecified

Respondents requested the following damages from claimant:

Attorneys' Fees and Costs	Amount unspecified
---------------------------	--------------------

### Other Issues Considered and Decided

Prior to the hearing, Claimant and Respondents agreed to enter a Stipulation of Award which they executed on May 5, 2001 and is attached hereto. This Stipulation of Award is being submitted to the panel for its consideration.

The parties have agreed that this Stipulated Award in this matter may be executed in counterpart copies.

### Award

On March 18, 2001, the Claimants and Respondent PaineWebber Incorporated (as successor to Bradford) entered in to an agreement to present to the panel a Stipulated Award. Respondents May, Northen, and Bannon participate in this agreement solely for the purpose of seeking an expungement, recognizing that they are not participating in the payment of any settlement to claimants and have expressly refused to do so. Now, in lieu of hearing and upon motion of these parties for entry of an award and the written stipulation thereto, the panel hereby grants the motion and enters this award granting the following relief:

1. Respondent PaineWebber Incorporated (as successor to Bradford) shall pay to Claimant the sum of Eighty Thousand Dollars and No Cents (\$80,000.00). Respondents May, Northen, and Bannon do not participate in any manner and expressly refuse to participate in the payment of any amounts to Claimants.

2. Each party shall bear its own costs and expenses with the exception of fees specified below.

3. The panel recommends the expungement of all reference to the above captioned arbitration and the claim giving rise thereto from the registration records (both archived and current) of respondents Andrew L. May, Read M. Northen, Jr., and Martin J. Bannon, III maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, these respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

4. Respondents Andrew L. May, Read M. Northen, Jr., and Martin J. Bannon, III are dismissed from this proceeding, with prejudice to any further claim by these Claimants. It is expressly understood that Respondents May, Northen and Bannon are not parties to any payment whatsoever to Claimants and that these Respondents are parties to this "Stipulated Award" solely and exclusively with respect to their request for expungement.

5. 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
--------------------------	----------

### 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 firms are J.C. Bradford & Co. and Branch Cabell & Co.

#### For J.C. Bradford & Co.:

Member surcharge	= \$1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$2,500

#### For Branch Cabell & Co.:

Member surcharge	= \$1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$2,500

### 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:

One pre-hearing session with Panel x \$1,125	= \$1,125
--	-----------

Pre-hearing conference:    October 24, 2000    one session	
--	--

Total Forum Fees	= \$1,125
------------------	-----------

The parties agreed that assessed forum fees would be split equally between Claimants and PaineWebber Incorporated as follows:

1. J.C. Bradford & Co., c/o PaineWebber Incorporated: = \$ 562.50
2. Claimants = \$ 562.50

#### Fee Summary

J.C. Bradford & Co., c/o PaineWebber is assessed the following fees:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$5,162.50
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 562.50

Claimant is assessed the following fees:

Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Refund owed to Claimant	= \$ 562.50

All balances are due and payable to NASD Dispute Resolution, Inc.

#### Arbitration Panel

Stuart H. Dunn, Esq.	-	Public Arbitrator, Presiding Chairperson
Stanley H. Ragle, Esq.	-	Public Arbitrator, Panelist
Keith A. Green	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators Signatures

Stuart H. Dunn  
Stuart H. Dunn  
Public Arbitrator, Presiding Chairperson

9/4/01  
Signature Date

Stanley H. Ragle  
Stanley H. Ragle  
Public Arbitrator, Panelist

Signature Date

Keith A. Green  
Keith A. Green  
Non Public Arbitrator, Panelist

Signature Date

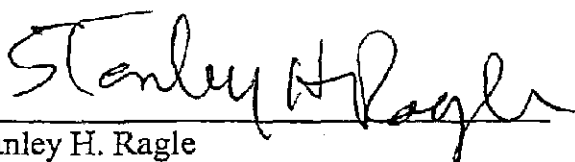
September 14, 2001  
Date Stipulated Award  
Served by NASD-DR



Concurring Arbitrators Signatures

\_\_\_\_\_  
Stuart H. Dunn  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Stanley H. Ragle  
Public Arbitrator, Panelist

September 4, 2001  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Keith A. Green  
Non Public Arbitrator, Panelist

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

September 14, 2001  
Date Stipulated Award  
Served by NASD-DR

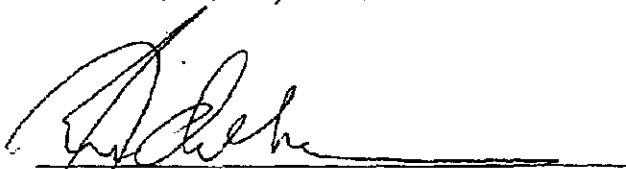
Concurring Arbitrators Signatures

\_\_\_\_\_  
Stuart H. Dunn  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Stanley H. Ragle  
Public Arbitrator, Panelist

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

  
\_\_\_\_\_  
Keith A. Green  
Non Public Arbitrator, Panelist

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

September 14, 2001  
Date Stipulated Award  
Served by NASD-DR