

**AWARD**

**NASD REGULATION, INC.,  
OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

Name of Claimants

Maxwell Kaplan and Patricia Kaplan

**AWARD = \$487,500**

v.

NASD Regulation, Inc.  
Arbitration No. 96-00454

Name of Respondents

Monterey Bay Securities, Inc.,  
Robert Blanchard, Kenneth Doolittle,  
Walter Hickey, and Mitchell Brater

**REPRESENTATION**

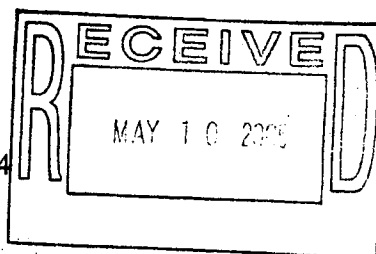
For Claimants:

Irwin Stein  
Investor Recovery Service  
Novato, California

For Respondents Monterey Bay Securities, Inc.  
and Kenneth Doolittle:

John Bender, Esq.  
Weiss, Jensen, Ellis & Howard  
Portland, Oregon

Pacific Exchange, Inc.  
115 Sansome Street  
San Francisco, CA 94104



In The Matter of The Arbitration Between:

Suzanne Rickwal

Claimant

PCX Case # 02-S055

v.

Salomon, Smith Barney; Ernest M. Back;  
Gerald R. Maestu; Lee Beattie

Respondents

DECISION

**AWARD = \$251,665  
Plus \$50,000 Punitive**

The undersigned Arbitrators, having read and considered the Claim submitted by Claimant and the Answer of Respondents, and having considered evidence presented at hearings on January 25, 26, 27, March 21, and April 18, in the year 2005, hereby render the following Decision pursuant to Pacific Exchange Rule 12:

**REPRESENTATION OF PARTIES**

**Of Claimant:**

Irwin G. Stein, Richard Sacks (Law Offices of Timothy Canning)

**Of Respondents:**

Julie L. Taylor, Esq., Darrell C. Martin, Esq. (Keesal, Young & Logan)

**SUMMARY OF FACTS**

**Claimant's allegations:** that she opened an account with Respondent Salomon, Smith Barney ("SSB") with securities worth approximately \$350,000 that she had acquired from a predecessor (twice removed) of US Web as payment for services. (US Web became MarchFirst following a merger but is referred to throughout as US Web). Claimant agreed with Respondent Back to follow a "collar strategy" recommended by him which purportedly would limit her risk in this concentrated position, yet allow her to earn income. (*"A collar" consists of buying a put option to fully protect the downside risk in a stock position (below the strike price level) and selling a covered call option to either partially or completely finance the cost of the put.* See Respondents' Exhibit 4) She subsequently lost her entire investment and the funds in her IRA, and was assessed a tax liability by the IRS on the early withdrawal from her IRA.

# AWARD = 239,000

## NATIONAL ASSOCIATION OF SECURITIES DEALERS AWARD

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In the Matter of the Arbitration Between

DAVID F. MOSER, BEATRICE MOSER,  
EARL HEITZMAN, ETHEL HEITZMAN,  
CATHY KIMBALL and THOMAS KIMBALL,

Claimants,

v.

94-05028  
NASD No. 94-28

SECURITIES WEST, INC., PHILLIP ANTON,  
JOSEPH ANTON, LAWRENCE DUCHENE and  
FRANK DETTENREIDER,

Respondents.

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### *Representation*

For Claimants: Richard Sacks of Investors Recovery Service, Novato, California and James Sullivan, Esq., San Francisco, California

For Respondent Frank Dettenreider (Dettenreider): L. Louis Raring of Raring and Lipoff, Costa Mesa, California

For Respondents Securities West, Inc., (SWI) Phillip Anton, (P. Anton) Joseph Anton (J. Anton) and Lawrence Duchene (Duchene): David Banerjee, of RND Resources, Inc., Encino, California

### *Case Information*

Statement of Claim filed: December 28, 1993

Claimants' Submission Agreement signed: David Moser - December 8, 1993,  
Earl Heitzman - November 1, 1993, Ethel Heitzman - November 1, 1993, Thomas Kimball  
and Cathy  
Kimball - November 8, 1993.

Statement of Answer filed on: Dettenreider - April 20, 1994,  
Statement of Answer of all other Respondents - April 22, 1994

# **AWARD = \$100,000**

## **Plus \$100,000 Punitive**

### **AWARD**

#### **NASD REGULATION, INC.**

In the matter of the Arbitration Between

Name of Claimant

Mary D. Birch

v.

Arbitration No.  
98-02244

Name of Respondent

Titan Value Equities Group, Inc.,  
Margaret Dawn Boland, and  
Ronald Harland Berg

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#### **REPRESENTATION**

For Claimant:	Irwin Stein, Esq. Law Offices of James J. Sullivan Novato, California
For Respondent: Margaret Dawn Boland	No Appearance

#### **CASE INFORMATION**

Statement of Claim filed:	June 19, 1998
Claimant's Submission Agreement signed:	May 15, 1998
Joint Statement of Answer filed by Respondents Titan Value Equities Group, Inc., and Ronald Harland Berg:	October 19, 1998
Statement of Answer filed by Respondent Margaret Dawn Boland:	None Filed

# **AWARD = \$194,596**

## **Award NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Kenneth Emery and Marjorie Emery, Claimants v. Prudential Securities Inc. (n.k.a. Prudential Equity Group, LLC), Michael J. Corley and Charles J. McFadden, Respondents

Case Number: 03-07544

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer v. Member and Associated Persons

### **REPRESENTATION OF PARTIES**

For Claimants:

Richard Sacks  
Irwin Stein  
Law Offices of Timothy A. Canning  
Novato, California

For Respondents:

Charles B. LaChaussee, Esq.  
Prudential Equity Group  
San Francisco, California

### **CASE INFORMATION**

Statement of Claim filed: October 20, 2003

Claimants' Joint Uniform Submission Agreement signed: October 13, 2003

Joint Statement of Answer by Respondents received: January 12, 2004

Respondent Prudential Securities Inc.'s ("Prudential") Uniform Submission Agreement signed:  
January 8, 2004

Respondent Michael J. Corley's ("Corley") Uniform Submission Agreement signed: January 9,  
2004

Respondent Charles J. McFadden's ("McFadden") Uniform Submission Agreement signed:  
December 22, 2003

# **AWARD = \$188,423**

## **Award NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Edwin Lingsch, Trustee, Lingsch Family Trust, Claimant v. Couch & Company, Incorporated,  
Raymond McKayle, Anthony Joe Radicone, Nancy Louden Couch and Philip Jay Horowitz,  
Respondents

Case Number: 01-03759

Hearing Site: San Francisco, California

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### **REPRESENTATION OF PARTIES**

For Claimant:

Irwin Stein  
Timothy A. Canning  
Novato, California

For Respondent Couch & Company, Incorporated:

Monroe E. Singer  
*Couch & Company, Incorporated*  
New York, New York

For Respondent Raymond McKayle:

Raymond McKayle  
Brooklyn, New York

For Respondent Anthony Joe Radicone:

Anthony Joe Radicone  
Staten Island, New York

For Respondent Nancy Louden Couch:

Nancy Louden Couch  
Houston, Texas

For Respondent Philip Jay Horowitz:

Philip Jay Horowitz  
New York, New York

### **CASE INFORMATION**

Statement of Claim filed on or about: July 9, 2001

Claimant's Uniform Submission Agreement filed on or about: July 9, 2001

Joint Statement of Answer of Respondents Thomas McDonald Couch, Jr., Anthony Joe Radicone  
("Radicone") and Nancy Louden Couch ("N. Couch"), filed on or about: January 3, 2002

# **AWARD = \$187,054 + Interest**

## **Award NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Dickson Ng, Claimant vs. Stratton Oakmont, J.B. Oxford and Company, Jordan R. Belfort, Kenneth S. Greene, Daniel M. Porush and Frank A. Riccuiti, Respondents.

Case Number: 98-03003

Hearing Site: San Francisco, CA

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### **REPRESENTATION OF PARTIES**

Claimant, Dickson Ng (hereinafter referred to as "Claimant"): Richard Sacks, Investors Recovery Service, and James J. Sullivan, Esq., Law Offices of James J. Sullivan, 2 Commercial Blvd., Suite 203C, Novato, CA 94949.

Respondent, J.B. Oxford and Company (hereinafter referred to as "JBO"): Jeffrey S. Kob, Esq., Miller, Milove & Kob, The Koll Center, 501 West Broadway, Suite 720, San Diego, CA 92101.

### **CASE INFORMATION**

Statement of Claim filed on or about: August 19, 1998

Claimant signed the Uniform Submission Agreement: May 18, 1998

Statement of Answer filed by Respondent, JBO, on or about: December 17, 1998

Respondent, JBO, signed the Uniform Submission Agreement: April 16, 1999

### **CASE SUMMARY**

Claimant asserted the following causes of action: Securities fraud, misrepresentation, breach of fiduciary duty, and violations of federal securities laws. The causes of action relate to securities transactions made or supervised by individual Respondents who were employed by Respondent Stratton Oakmont, and subsequently cleared by Respondent JBO.

Unless specifically admitted in its Answer, Respondent JBO denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a cause of action; the claims are barred from recovery by waiver, laches, estoppel, ratification, unclean hands, *in pari delicto*, and by the applicable statute of limitations; any damages Claimant may have sustained were due to market conditions or parties other than JBO; Claimant failed to mitigate and allege fraud with particularity; Claimant is not entitled to punitive damages or attorney's fees; no private right of action exists for alleged violations of NASD or exchange rules and; a covenant of good faith and fair dealing did not exist between Claimant and JBO.

# AWARD = \$175,000

## Award NASD Regulation, Inc.

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In the Matter of the Arbitration Between:

Margaret Patterson As Trustee For Margaret Patterson Trust dtd 11/28/88, Claimant vs. Gary Lee Anderson, Respondent.

Case Number: 98-02008

Hearing Site: San Francisco, California

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### REPRESENTATION OF PARTIES

Claimant, Margaret Patterson As Trustee For Margaret Patterson Trust dtd 11/28/88, hereinafter referred to as "Claimant": Richard Sacks and James J. Sullivan, Esq., Novato, California

Respondent, Gary Lee Anderson, hereinafter referred to as "Respondent": John G. Vasil, Esq., Campbell, California

### CASE INFORMATION

Statement of Claim filed on or about: June 1, 1998

Claimant, Margaret Patterson As Trustee For Margaret Patterson Trust dtd 11/28/88, signed the *Uniform Submission Agreement*: March 27, 1998

Statement of Answer filed by Respondent, Gary Lee Anderson, on or about: September 15, 1998  
Respondent, Gary Lee Anderson, signed the *Uniform Submission Agreement*: September 10, 1998

### CASE SUMMARY

Claimant alleged that Claimant's investment objectives at all times, and in particular the previous six years prior to claim filing, have always been for conservatively structured income and growth investments. Claimant further alleged that the dispute giving rise to Claimant's Claim is based upon fraudulent representations concerning the safety, liquidity and conservative structure of those investments, primarily limited partnerships purchased by Claimant. Claimant further alleged that included with such misrepresentations were fraudulent concealment of these partnerships financial problems, along with ongoing concealment of their declining values. Claimant also alleged NASD Rule Violations.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent alleged that dissatisfaction with portfolio performance does not mean that the purchase of the investments was induced by fraud or misrepresentation. Respondent further alleged that Claimant's Claim is blatantly erroneous, misleading and contains gross exaggerations.



**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between

Names of Claimants

Oscar L. Berry, Jr.  
Susan B. Berry  
Drs. Berry & Kalmbach APC Defined Benefit Plan  
R/O FBO Oscar L. Berry, Jr. MD UAD 1/1/84 and  
The Women's Clinic 401K FBO Oscar L. Berry TTEE

Case No. 97-01491

Names of Respondents

Warren Joseph Stassi  
Debra Haywood  
James McCurry  
Joseph Biedenharn  
Samuel Rubin  
Uwe Schmidt  
Rudolph Miksa  
Richard Herschel Harter  
William Powdrill III

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**REPRESENTATION OF PARTIES**

For Claimants Oscar L. Berry, Jr., Susan B. Berry, Drs. Berry and Kalmbach APC  
Plan R/O FBO Oscar L. Berry, Jr. MD UAD  
L. Berry TTEE, hereinafter collectively re  
Novato, California.

**AWARD = \$150,000**

For Respondents Samuel Rubin ("Rubin") and Rudolph Miksa ("Miksa"): Robert G. Foley,  
Esq., Monroe, Louisiana.

For Respondent Joseph Biedenharn ("Biedenharn"): W.L. West, Esq. of the law firm of  
Lemle & Kelleher, L.L.P., New Orleans, Louisiana.

For Respondent William Powdrill III ("Powdrill"): James H. Askew, Esq., Shreveport,  
Louisiana.

For Respondent Herschel R. Harter ("Harter"): George Denegre, Jr., Esq. of the law firm  
of Liskow & Lewis, New Orleans, Louisiana.

For Respondent Uwe Schmidt ("Schmidt"): Robert G. Foley, Esq., Monroe, Louisiana until

**Award**  
**NASD Dispute Resolution**

**COPY**

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In the Matter of the Arbitration Between:

William McGeever and Evelyn McGeever, Trustees of the William E. & Evelyn J. McGeever Living Trust DTD 12/15/98, Claimant v. UBS Financial Services Inc., Michael E. Hack and James H. Ross, Respondents

Case Number: 03-01655

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer vs. Member and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimant:

**AWARD = \$150,000**  
California

For Respondents:

Eric G. Wallis, Esq.  
Reed Smith LLP  
Oakland, California

**CASE INFORMATION**

Statement of Claim filed: March 6, 2003

Claimant's Arbitration Brief filed: April 15, 2005

Claimant's Uniform Submission Agreement signed: February 4, 2003

Joint Statement of Answer filed by Respondents UBS Financial Services Inc. fka UBS Paine Webber Inc. ("UBS"), Michael E. Hack and James H. Ross: May 15, 2003

Respondents' Hearing Brief filed: April 14, 2005

Respondent UBS's Uniform Submission Agreement signed: May 17, 2003

Respondent Michael E. Hack's Uniform Submission Agreement signed: May 7, 2003

Respondent James H. Ross' Uniform Submission Agreement filed: May 19, 2003

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11/96

**AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

**National Association of Securities Dealers Inc.**

In the Matter of the Arbitration Between

Name of Claimant

1996

Douglas A. Lapins and Virginia H. Lapins

All Rights Reserved

and

95-05000

Name of Respondent

**AWARD = \$260,000  
Plus Interest**

\*Titan Value Equities Group, Inc.  
Richard W. Rogers  
Susan Rogers

**REPRESENTATION OF PARTIES**

Douglas A. Lapins and Virginia H. Lapins ("Claimants") were represented by James J. Sullivan, Esq., San Francisco, California.

Titan Value Equities Group, Inc. ("Respondent Titan"), Richard W. Rogers ("Respondent") and Susan Rogers ("Respondent") were represented by Brett Marshall Godfrey, Esq. and Richard Arnsperg Nervi, Esq., Godfrey & Associates, Denver, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about October 23, 1995. Submission Agreement of Claimants Douglas A. Lapins and Virginia H. Lapins was signed on August 21, 1995.

Statement of Answer was filed by Respondents Titan Value Equities Group, Inc., Richard W. Rogers and Respondent Susan Rogers on or about January 12, 1996.

**HEARING MATION**

A pre-hearing conference was held on August 5, 1996 for one (1) session, August 7, 1996 for one (1) session, and August 19, 1996 for one (1) session with Edmund Epstein, Esq., presiding.

The hearing was held on August 20, 1996 for one (1) session, October 30, 1996 for one (1) session, October 31, 1996 for two (2) sessions and November 1, 1996 for three (3) sessions in Denver, Colorado for a total of three (3) pre-hearing and six (6) hearing sessions.

# **AWARD = \$143,925**

## ***N.A.S.D. AWARD***

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

#### **Name of Claimant**

Gary Rulli

NASD Arbitration  
No. 92-03621

#### **Name of Respondents**

Atlanta-One, Inc.  
Brian Moore  
Paul Courtright  
Mark Piskura

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### **REPRESENTATION**

For Claimant: Richard Sacks, Investors Recovery Service

For Respondent: Robert L. Conn, Esq. - Newport Beach, California

### **CASE INFORMATION**

Statement of Claim filed: October 26, 1992

Claimant's Submission Agreement signed: October 20, 1992

Joint Statement of Answer filed by Respondents: December 11, 1992

Respondent, Atlanta-One, Inc.'s Submission Agreement signed: November 20, 1992

Respondent, Brian R. Moore's Submission Agreement signed: November 20, 1992

# AWARD = \$140,000

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

L. James Newman

NASD Arbitration  
No. 95-05076

Name of Respondent(s)

Allen B. Berman  
Berman & Stickel, Inc.  
Mark S. Stickel  
Susette Stickel  
Linda Olson  
Mitchell Brater

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### REPRESENTATION

For Claimant: Richard Sacks and Irwin G. Stein, Investors Recovery Service, Novato, California

For Respondents Allen B. Berman, Berman & Stickel, Inc., Mark S. Stickel, Susette Stickel and Linda Olson: John A. Bender, Jr., Esq., Weiss, Jensen, Ellis & Howard, Seattle, Washington

For Respondent Mitchell Brater: No Appearance at Hearing.

### CASE INFORMATION

Statement of Claim filed: October 24, 1995

Claimant's Submission Agreement signed: August 22, 1995

Joint Statement of Answer filed by Respondents Berman & Stickel, Inc., Allen B. Berman, Mark S. Stickel, Susette Stickel and Linda Olson: January 16, 1996

# AWARD = \$137,750

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jean L. Brunning

NASD Arbitration  
No. 92-00879

Name of Respondents

Securities West, Inc.  
Daniel R. Licon

REPRESENTATION

For Claimant: Richard Sacks

For Respondent: Shannon L. McJougald - Kessal Young & Logan

CASE INFORMATION

Statement of Claim filed: March 12, 1992

Claimant's Submission Agreement signed on: February 18, 1992

Statement of Answer filed by Respondent, Securities West, Inc. on: May 29, 1992

Respondent, Securities West, Inc.'s Submission Agreement signed on: May 28, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Date/Sessions: October 1, 1992 - Two Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Jean L. Brunning (Brunning) alleged that Respondent, Daniel R. Licon (Licon), while employed by Respondent, Securities West, Inc., sold Brunning a \$95,000.00 interest in a limited partnership. It was alleged that the sale was unsuitable for Brunning and was accomplished by misrepresentations made to Brunning by Licon.

Respondent, Securities West, Inc., alleged that Licon was an independent contractor and a registered representative with Securities West at the time the transaction was made. However, it is alleged that Securities West was not at any time involved in the transaction at issue and made no representations to the claimant regarding it.

# AWARD = \$125,000

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Lingsch Family Trust  
Edwin & Ann Lingsch, Trustees

NASD Arbitration  
No. 93-00941

Name of Respondents

Gruntal & Co., Inc.  
Scott R. Udine  
Lyle Gary  
Frank Napolitano  
Tom Connell

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**REPRESENTATION**

For Claimant: Richard Sacks - Investors Recovery Services

For Respondents: W. Reece Bader, Esq. - Orrick Herrington & Sutcliffe - New York, New York

**CASE INFORMATION**

Statement of Claim filed: March 12, 1993

Claimant's Submission Agreement signed: February 16, 1993

Statement of Answer filed by Respondents: July 6, 1993

Submission Agreement signed by Respondent, Thomas J. Connell on July 6, 1993

Submission Agreement signed by Respondent, Scott Udine on July 1, 1993

Submission Agreement signed by Respondent, Lyle Gary on July 1, 1993

# **AWARD = \$98,500 Plus Interest**

## **Award NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Stewart E. Bowen, Jr., Claimant v. Cuna Brokerage Services, Inc., XCU Capital Corporation, Inc., and Michael Peacock, Respondents

Case Number: 04-00734

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer v. Members and Associated Person

### **REPRESENTATION OF PARTIES**

For Claimant:

Richard Sacks  
Law Office of Timothy A. Canning  
Novato, California

For Respondents:

Gregory J. Schaefer, Esq.  
Hinshaw & Culbertson LLP  
Minneapolis, Minnesota

### **CASE INFORMATION**

Statement of Claim filed: February 2, 2004

Claimant's Uniform Submission Agreement signed: December 30, 2003

Joint Statement of Answer filed by Respondents: April 2, 2004

Respondent Cuna Brokerage Services, Inc.'s Uniform Submission Agreement signed: March 11, 2004

Respondent XCU Capital Corporation, Inc.'s Uniform Submission Agreement signed: April 2, 2004

Respondent Michael Peacock's Uniform Submission Agreement signed: March 25, 2004



# **AWARD = \$90,950**

## **Plus Interest**

### **Plus \$20,000 Punitive**

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In the Matter of the Arbitration Between:

Ann Gifford, Claimant v. Raymond James Financial Services, Inc., Paul Hanson, Jr. and Ellen E. Shell, Respondents

Case Number: 01-02923

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer vs. Member and Associated Persons

#### **REPRESENTATION OF PARTIES**

For Claimant:

Timothy Canning, Esq.  
Richard Sacks  
Novato, California

For Respondent Paul Hanson, Jr.:

Paul Hanson, Jr.  
St. Helena, California

For Respondent Ellen E. Shell:

Peter B. Sandmann, Esq.  
Tesler, Sandmann & Fishman  
San Francisco, California

#### **CASE INFORMATION**

Statement of Claim filed: May 30, 2001

Claimant's Uniform Submission Agreement signed: April 7, 2001

#### **CASE SUMMARY**

Claimant alleged the following claims with respect to investments in Viatical Notes: 1) Misrepresentation; 2) Unsuitability; 3) Failure to Supervise; 4) Selling Away; 5) Breach of Contract; 6) Negligence; 7) Fraud; and 8) Breach of Fiduciary Duty.

#### **RELIEF REQUESTED**

Claimant requested:

1. Damages in the amount of \$99,750.00;
2. Interest;
3. Costs;

NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD

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In the Matter of the Arbitration Between

Harriet Reeves,

Claimant,

v.

Ernest Haupt,

Respondent.

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94-00572  
NASD No. 94-572

**AWARD = \$85,266.03**

*Representation*

For Claimants: Richard Sacks of Investors Recovery Services, Novato, California and  
Irwin Stein, Esq., San Francisco, California

For Respondent: H. Ray Peffer of Smith, Merrill and Peffer, San Ramon, California

*Case Information*

Statement of Claim filed: February 9, 1994

Claimant's Submission Agreement signed: May 24, 1993

Statement of Answer filed on: April 19, 1994

Respondent's Submission Agreement signed on: April 20, 1994

*Hearing Information*

Prehearing Conference Date(s)/Sessions: May 5/one, 1995

Hearing Date/Sessions: June 12/one, 1995, October 23/two, 24/one, 1995

Hearing Location: San Francisco, California

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

James A. Drummond

**AWARD = \$80,000**

NASD Arbitration  
No.92-00756

Name of Respondent

Hugh Gee & Co., Inc.  
Hugh Gee  
Terrence Gee

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Service, Novato, California

For Respondents: Jerome Berg, Esq., San Francisco, California

CASE INFORMATION

Statement of Claim filed: March 3, 1992

Claimant's Submission Agreement signed on: January 23, 1992

Joint Statement of Answer filed: April 16, 1992

Respondents' Submission Agreements signed: April 30, 1992

HEARING INFORMATION

Hearing Dates/Sessions:

August 5, 1992	-	1 Session
November 3, 1992	-	2 Sessions
November 4, 1992	-	2 Sessions
December 2, 1992	-	3 Sessions
December 3, 1992	-	1 Session

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged misrepresentation and lack of suitability with respect to an investment made in Commonwealth Equity Trust, a real estate investment trust, in November 1987.

Respondents denied the allegations, and asserted that the investment was appropriate for Claimant, and that Claimant did not heed a recommendation to sell the CET investment at a profit.

**AWARD = \$59,751**

***N.A.S.D. AWARD***

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

**Name of Claimants**

Earl McClaskey  
Marilyn McClaskey

NASD Arbitration  
No. 91-03617

**Name of Respondents**

Soares Financial Group  
Charles Richard Bateman

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**REPRESENTATION**

For Claimant: Richard L. Sacks - Investors Recovery Service; Novato, California

For Respondents: Andrew H. Wilson, Esq. - Wilson Ryan & Campolingo, San  
Francisco, California

**CASE INFORMATION**

Statement of Claim filed: November 11, 1991

Claimants' Submission Agreement signed: November 1, 1991

Joint Statement of Answer filed by Respondent: January 15, 1992

Respondents' Submission Agreement signed: December 30, 1991

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
AWARD

In the matter of the Arbitration Between

**AWARD = \$56,919**

Name of Claimant(s)

Julia P. Williams

v.

NASD Arbitration  
No. 94-00914

Name of Respondent(s)

Del Mar Securities  
Kevin Allen  
Michael S. Greene  
Ricci Donald Null

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**REPRESENTATION**

For Claimant: Richard Sacks,  
Investors Recovery Service,  
Novato, California

For Respondent Null: Thomas N. Cano, Esq.  
Woodland Hills, California

For Respondents Del Mar Securities and Kevin Allen:

No appearance

**CASE INFORMATION**

Statement of Claim filed: March 8, 1994

Claimant's Submission Agreement signed: August 20, 1993

Statement of Answer filed by Respondent Null: September 27, 1994

Respondents' Submission Agreements signed: None submitted

# AWARD = \$52,000

## Amended Award NASD Dispute Resolution

# COPY

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In the Matter of the Arbitration Between:

Jim York and Betty York, Claimants v. Prime Charter Ltd., Mark A. Feldman and James A. Gianni, Respondents

Case Number: 02-02057

Hearing Site: San Francisco, California

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Nature of the Dispute: Customers vs. Member and Associated Persons

### REPRESENTATION OF PARTIES

For Claimants:

Richard Sacks  
Timothy A. Canning, Esq.  
Novato, California

For Respondents:

Margarita L. Landaburu  
Eric J. Shames  
Fahnestock & Co. Inc.  
New York, New York

### CASE INFORMATION

Statement of Claim filed: April 9, 2002

Claimants' Uniform Submission Agreement signed: January 26, 2002

Joint Statement of Answer filed by Respondents Prime Charter Ltd. ("Prime Charter"), Mark A. Feldman and James A. Gianni: August 29, 2002

### CASE SUMMARY

Claimants alleged the following claims with respect to their margin account and in connection with investments in various stocks and options: 1) Misrepresentation; 2) Unsuitability; 3) Unauthorized Trades; 4) Failure to Supervise; 5) Fraud; 6) Negligence; 7) Breach of Contract; and 8) Breach of Fiduciary Duties. Claimants also alleged violation of NASD Rules of Fair Practice. Claimants' Claim did not indicate the specific stocks at issue in this matter.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted affirmative defenses.

2/9/98

01/31/98

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

**AWARD = \$50,000  
Plus Interest**

Name of Claimants

Jay Schriefer and  
AA Lighting & Electrical

97-01044

Name of Respondents

TDI, Inc.,  
Jerry Manning, and  
Scott Purcell

**REPRESENTATION OF PARTIES**

Jay Schriefer and AA Lighting & Electrical ("**Claimants**") was represented by Richard Sacks, Investors Recovery Services, Novato, California.

TDI, Inc. and Jerry Manning ("**TDI**") were represented by William R. Rapson, Esq., Slivka, Robinson, Waters & O'Dorisio, Denver, Colorado.

Scott Purcell represented himself.

**CASE INFORMATION**

- Claimant's Statement of Claim was filed on or about January 9, 1997.
- Claimant's Submission Agreement was signed on January 22, 1997.
- TDI's Joint Statement of Answer was filed on or about April 14, 1997.
- TDI's Submission Agreement was signed on April 17, 1997.
- Manning's Submission Agreement was signed on April 17, 1997.
- Purcell's Statement of Answer and Request for Dismissal was filed on or about November 16, 1997.

**HEARING INFORMATION**

- |                                       |                    |              |
|---------------------------------------|--------------------|--------------|
| Pre-hearing conferences were held on: | September 19, 1997 | one session; |
|                                       | October 17, 1997   | one session; |
|                                       | December 10, 1997  | one session; |
|                                       | December 11, 1997  | one session. |

# AWARD = \$40,000 Plus Interest

11/94

9411096

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Evelyn Hansten

NASD Arbitration  
No. 93-02042

Name of Respondent(s)

Soares Financial Group, Inc.  
Gregory Soares

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### REPRESENTATION

For Claimant: Irwin Stein, Investors Recovery Service, Novato, California

For Respondent Soares Financial Group, Inc.: No Appearance

### CASE INFORMATION

Statement of Claim filed: May 19, 1993

Claimant's Reply to Motion to Dismiss Claims filed: August 13, 1993

Claimant's Supplemental Correspondence in Response to Motion to Dismiss Claims filed: August 24, 1993

Claimant's Submission Agreement signed: March 30, 1993

Motion to Dismiss Claims filed by Respondents: August 11, 1993

Respondents' Submission Agreements signed: August 9, 1993

### HEARING INFORMATION



## N.A.S.D. AWARD

### NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)  
Odin Luckenbaugh

91-01967

Name of Respondent(s)  
Dean Witter Reynolds, Inc.

#### REPRESENTATION

For Claimant: Richard Sacks of Investors Recovery Service, and Irwin Stein, Esq.

For Respondent: Jay Cutler, Esq. of Dean Witter Reynolds, Inc.

#### CASE INFORMATION

Statement of Claim filed: June 25, 1991

Claimant's Submission Agreement signed on: June 15, 1991

Statement of Answer filed by Respondent on: August 15, 1991

Respondent's Submission Agreement signed on: August 9, 1991

#### HEARING INFORMATION

Pre-Hearing Conference(s) : None

Hearing Date(s)/Session(s): December 17 and 18, 1991 / three sessions

Hearing Location: San Francisco, California

#### CASE SUMMARY

Claimant alleged that Respondent sold him products that were misrepresented, unsuitable, and inappropriate and with apparently no purpose other than to generate commissions; and improperly traded in mutual fund shares. Claimant also alleged failure to supervise. The allegations concerned investments including the Dean Witter High Yield Securities, Van Kampen Merit U.S. Government Securities Trust, Security Pacific Bank Preferred J, and Bank of America Preferred.

Respondent denied the allegations in the Claim. Respondent alleged that suitable and adequate disclosure was made; there is no private right of action for the alleged violations of NASD rules; Claimant cannot establish a "suitability" claim; there was no breach of fiduciary duty; Claimant cannot establish any causally-related damages; the claim is barred by Claimant's own negligence; Claimant failed to mitigate his losses; Claimant assumed the risk of loss; and the Claim is barred in whole or party by the applicable statute of limitations.

Page 2 of 3

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Judith C. Desmond and Robert J. Desmond, Claimants v. Morgan Stanley Dean Witter  
n/k/a Morgan Stanley DW Inc. and Gayle J. Gaston, Respondents

Case Number: 05-06054

Hearing Site: San Francisco, California

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Nature of the Dispute: Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimants:

**AWARD = \$39,000**

Novato, California

For Respondents:

Cassandra Knight, Esq.  
Morgan Stanley Law Division  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: November 25, 2005

Claimants' Joint Uniform Submission Agreement signed: November 20, 2005

Joint Statement of Answer filed by Respondents: February 7, 2006

Respondent Gayle J. Gaston's Uniform Submission Agreement signed:  
February 7, 2006

Respondent Morgan Stanley Dean Witter n/k/a Morgan Stanley DW Inc.'s ("Morgan  
Stanley DW Inc.") Uniform Submission Agreement: February 7, 2006

**AWARD = \$32,000**

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

**Name of Claimants**

Robert Pewitt  
Nancy Pewitt

NASD Arbitration  
No. 92-01315

**Name of Respondents**

Dean Witter Reynolds, Inc.  
Ken Mattson  
Allan Bud Stevenson

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**REPRESENTATION**

For Claimant: Richard Sacks - Investors Recovery Service - Novato, Ca.

For Respondents, Dean Witter Reynolds, Inc. and Allan Bud Stevenson: David P. Restaino - Dean Witter Reynolds, Inc. San Francisco, Ca.

For Respondent, Ken Mattson - Timothy J. LeFever, Esq. - LeFever, LeFever and Mattson, Vacaville, California.

**CASE INFORMATION**

Statement of Claim filed: April 14, 1992

Claimants' Submission Agreement signed: March 20, 1992

Statement of Answer filed by Respondents: Dean Witter Reynolds, Inc., on June 15, 1992

**AWARD = \$30,000**

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

August E. Nies

v.

Name of Respondents

Diversified Securities, Inc. and Louis S. Faubert

NASD Arbitration  
No. 95-01891

REPRESENTATION

For Claimant: Richard Sacks  
Investors Recovery Service  
Novato, California

For Respondent: James Geffner, Esq.  
Burbank, California

CASE INFORMATION

Statement of Claim filed:	April 17, 1995
Amendment to Statement of Claim Filed:	February 13, 1996
Claimant's Submission Agreement signed:	February 22, 1995
Joint Statement of Answer filed by Respondents:	June 21, 1995
Respondent Diversified Securities Inc.'s Submission Agreement signed:	June 15, 1995
Respondent Louis S. Faubert's Submission Agreement signed:	June 15, 1995

# AWARD = \$30,000

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
In the matter of the Arbitration Between

Name of Claimant(s)

Robert D. and Mary G. Waller, Trustee

v.

NASD Arbitration  
No. 94-01275

Name of Respondent(s)

Titan Value Equities Group and Erny Malakoff

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### REPRESENTATION

For Claimants: Richard Sacks, Investors Recovery Services,  
Novato, California

For Respondents: Donald Wagner, Wagner & Lickman,  
Irvine, California

### CASE INFORMATION

Statement of Claim filed: March 29, 1994

Claimants' Submission Agreement signed: November 15, 1993

Joint Statement of Answer filed by Respondents: August 23, 1994

Respondent Titan Value Equities Group's Submission Agreement signed: August 19, 1994

Respondent Erny Malakoff's Submission Agreement signed: August 11, 1994

### HEARING INFORMATION

Hearing Dates/Sessions: April 20, 1995 (two sessions)  
April 21, 1995 (two sessions)

Hearing Location: San Francisco, California

# AWARD = \$25,000

## N.A.S.D. AWARD

### NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert E. and Theima J. Parrett

NASD Arbitration  
No.92-02894

Name of Respondent(s)

Dean Witter Reynolds, Inc.

Terence Johnson

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### REPRESENTATION

For Claimants: Richard Sacks, Investors Recovery Service, Novato, California

For Respondents: Paul D. Allen, Esq., Dean Witter Reynolds, Inc., San Francisco, California

### CASE INFORMATION

Statement of Claim filed: August 27, 1992

Claimants' Submission Agreement signed: June 19, 1992

Joint Statement of Answer filed: October 28, 1992

Respondents' Submission Agreements signed:

Dean Witter Reynolds: October 20, 1992

Terence Johnson: October 16, 1992

# AWARD = \$20,000

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Paul D. Beechen

NASD Arbitration  
No. 92-00544

Name of Respondents

Shearson Lehman Brothers, Inc.  
David Serrato

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Service

For Respondents: Kathryn L. Krebs, Esq., Keesal, Young & Logan, Long Beach  
California

CASE INFORMATION

Statement of Claim filed: February 13, 1992

Claimant's Submission Agreement signed on: January 9, 1992

Joint Statement of Answer filed by Respondents on: April 10, 1992

Respondents' Submission Agreements signed on: March 13, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions: November 16, 1992 - Two Sessions  
November 17, 1992 - One Session

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Paul D. Beechen (Beechen) alleged that Respondent, David Serrato (Serrato), while employed by Respondent, Shearson Lehman Hutton, Inc. (Shearson) sold Beechen \$100,000.00 worth of TWA 16% Debentures which later lost value when Shearson changed its opinion from "a hold" to "a sell". Beechen alleged that he was not told of this change and was told to retain his interest in spite of the decrease in the value of the bonds.

**Award**  
**NASD Regulation, Inc.**

In the matter of the Arbitration Between

Name of Claimants

Ronald K. Clark

v.

Name of Respondents

E\*Trade Securities, Inc.

**AWARD - \$18,000**  
**Online Firm**

98-02450

**REPRESENTATION OF PARTIES**

For Claimant, Richard Sacks, Investors Recovery Service, Novato, California.

For Respondent, Ekwon E. Rhow, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, California.

**CASE INFORMATION**

Claimant filed the Statement of Claim on or about: July 3, 1998.

Claimant signed the Uniform Submission Agreement: May 18, 1998.

Respondent, E\*Trade Securities, Inc., filed the Statement of Answer on or about: September 9, 1998.

Respondent, E\*Trade Securities, Inc., signed the Uniform Submission Agreement: November 3, 1998.

**CASE SUMMARY**

Claimant alleges that the Respondent incorrectly rejected an order for 3000 shares of Catalytica (CTAL) due to a computer error which indicated that the account had insufficient funds to execute the trade. The Claimant alleges that his intent had been to place additional orders for CTAL but was unable to do so due to the problem with the initial trade.

The Respondent admits error in rejecting the Claimant's initial trade and argues that the Claimant's account was adjusted the next day to reflect Claimant's purchase of the 3000 shares. Additionally, the Respondent argues that the Claimant's effort to seek damages for trades which were never attempted are unsupported by any evidence.



# AWARD = \$12,455 Plus Interest

AWARD

NASD REGULATION, INC.

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In the matter of the Arbitration Between

Name of Claimant(s)

G. John Coppini

v.

Arbitration No.

97-03531

Name of Respondent(s)

RTG Richards, Inc.  
Louis Pascuzzi  
William DiNapoli  
Milton Green  
Jean Pierre Serena

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## REPRESENTATION

For Claimant: Richard Sacks  
Investors Recovery Service  
Novato, California

For Respondents:

RTG Richards: No appearance

Louis Pascuzzi: Dan A Druz, Esq.  
Manasquan, New Jersey

William DiNapoli: Represented himself

## CASE INFORMATION

Statement of Claim filed August 18, 1997

Amended Statement of Claim filed June 8, 1998

