

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant
Russell Stephen Tarrant

Case Number: 10-03532

vs.

Respondent
Kovack Securities Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

For Russell Stephen Tarrant, hereinafter referred to as "Claimant": Jeffrey Erez, Esq., Sonn & Erez, PLC, Fort Lauderdale, Florida.

For Kovack Securities Inc., hereinafter referred to as "Respondent": Todd A. Zuckerbrod, Esq., Todd A. Zuckerbrod, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 5, 2010.
Claimant signed the Submission Agreement: August 4, 2010.

Statement of Answer filed by Respondent on or about: October 20, 2010.
Respondent signed the Submission Agreement: October 26, 2010.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) negligence; 3) negligent supervision; 4) fraud; and, 5) breach of contract. The causes of action relate to the alleged solicitation to invest in a real estate project and subsequent sale of various securities in Claimant's account including, but not limited to, a SunLife annuity, to fund a loan made to Claimant's broker.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of

\$500,000.00, interest, costs, punitive damages, and such other and further relief as this Panel deemed just and proper.

In its Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

The parties 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is found liable and shall pay to Claimant compensatory damages in the amount of \$100,000.00, pre-judgment interest specifically denied.

Respondent is found liable and shall pay to Claimant punitive damages in the amount of \$200,000.00. The panel determined that punitive damages should be awarded due to the egregious behavior on the part of the broker and the apparent lack of any system of supervision by the Respondent. The broker was employed for over two and one-half years by Respondent and there was no evidence of any compliance reports. The situation is more egregious given the Respondent was aware the broker had been terminated from another firm due to unreported and unapproved outside activities. Even though the broker disclosed an outside activity shortly after being employed by Respondent, there was no evidence of any type of supervision or monitoring system to ensure the outside activity was conducted properly. Additionally, the Claimant was never notified that the broker was terminated and continued to receive financial statements from Respondent listing the broker as the financial adviser. The parties agreed that Florida law provided the legal basis for this claim. The following authorities support the award of punitive damages: 1) *Mastrobuono vs. Shearson Lehman Hutton*, 514 U.S. 52 52(1995); and, 2) *Masey vs. Humana, Inc.* 2007 U.S. Dist. LEXIS 63556 (MD Fla. 2007); Fla. Stat. §768.737.

Respondent is found liable and shall pay to Claimant costs in the amount of \$14,017.00.

Respondent is found liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the non-refundable portion of the claim filing fee previously paid by Claimant to FINRA Dispute Resolution.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing fee = \$ 1,425.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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. Accordingly, as a party and a member firm Respondent is assessed the following:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A 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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: November 14, 2011 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: December 22, 2010 1 session	
Three (3) Hearing sessions @ \$1,125.00/session	= \$3,375.00
Hearing Dates: February 6, 2012 2 sessions	
February 7, 2012 1 session	

Total Hearing Session Fees = \$4,950.00

The Panel has assessed the total hearing session fees in the amount of \$4,950.00 to Respondent.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Deborah A. Jackson - Public Arbitrator, Presiding Chairperson
Pat Huddleston, II - Public Arbitrator
Dimitri Angelo Dodys - Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures

/s/
Deborah A. Jackson
Public Arbitrator, Presiding Chairperson

2/13/12
Signature Date

/s/
Pat Huddleston, II
Public Arbitrator

2/13/12
Signature Date

/s/
Dimitri Angelo Dodys
Non-Public Arbitrator

2/13/12
Signature Date

2/13/12
Date of Service (For FINRA Dispute Resolution office use only)

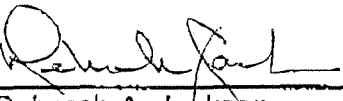
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 Public Arbitrator, Presiding Chairperson

February 13, 2012

 Signature Date

 Pat Huddleston, II
 Public Arbitrator

 Signature Date

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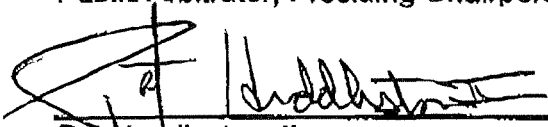
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2/13/2012

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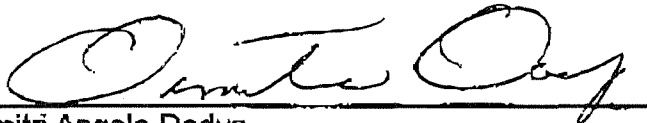
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Public Arbitrator, Presiding Chairperson

Signature Date

Pat Huddleston, II
Public Arbitrator

Signature Date



Dimitri Angelo Dodys
Non-Public Arbitrator

FEBRUARY 13, 2012

Signature Date

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