

**ORIGINAL**

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

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In the Matter of the Arbitration Between:

Lester Berman, Kimi Berman, David W. Couch, Christine A. Couch, Leslie L. Briley, Jr., Travel Shoppers, Inc., Herman Pettegrove, Jack W. Godebu, Lena K. Godebu, Frank D. Talbott, and Patricia J. Talbott, Claimants v. Wedbush Morgan Securities, Inc., Inc., Long Securities Corporation n/k/a Long Securities Corporation II, Lawrence Sherman Jay, Thomas William Scott, and John Nicholas Baker, Respondents

Case Number: 00-00737

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Montgomery G. Griffin, J.D.  
Securities Arbitration Offices  
of Montgomery G. Griffin  
Newport Beach, California

For Respondent Wedbush Morgan Securities, Inc., Inc.:

Jerry S. Phillips, Esq.  
Richman, Mann, Chizever,  
Phillips & Duboff  
Beverly Hills, California

For Respondents Long Securities Corporation II,  
Lawrence Sherman Jay, and Thomas William Scott:

H. Thomas Fehn, Esq.  
Fields, Fehn & Sherwin  
Los Angeles, California

For Respondent John Nicholas Baker:

Michael M. Gless, Esq.  
Keesal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: February 16, 2000

First Amended Statement of Claim filed: August 15, 2000

Second Amended Statement of Claim filed: March 13, 2001

Claimants Uniform Submission Agreements signed as follows:

Lester Berman: August 25, 1999  
Kimi Berman: August 25, 1999  
Christine A. Couch: September 7, 1999  
David W. Couch: September 9, 1999  
Leslie L. Briley, Jr.: August 25, 1999  
Travel Shoppers, Inc.: March 11, 2000  
Herman Pettegrove: August 21, 2000  
Jack W. Godebu: March 28, 2002  
Lena K. Godebu: March 28, 2002  
Frank D. Talbott: March 26, 2002  
Patricia J. Talbott: March 26, 2002

Statement of Answer filed by Respondent Wedbush Morgan Securities, Inc.: June 20, 2000

Amended Statement of Answer filed by Respondent Wedbush Morgan Securities, Inc.: June 22, 2001

Respondent Wedbush Morgan Securities, Inc.'s Uniform Submission Agreement signed: June 20, 2000

Joint Statement of Answer filed by Respondents Long Securities Corporation II and Lawrence Sherman Jay: June 2, 2000

Respondents Long Securities Corporation II's and Lawrence Sherman Jay's Uniform Submission Agreements signed: May 24, 2000

Statement of Answer filed by Respondent Thomas William Scott: June 2, 2000

Respondent Thomas William Scott's Uniform Submission Agreement signed: June 1, 2000

Statement of Answer filed by Respondent John Nicholas Baker: June 2, 2000

Respondent John Nicholas Baker's Uniform Submission Agreement signed: May 24, 2000

### **CASE SUMMARY**

Claimants alleged breach of contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, unsuitability, fraud, misrepresentation, omission of fact, negligence, churning, failure to supervise, and violation of Federal securities laws and regulations.

Respondent Wedbush Morgan Securities, Inc. denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

Respondents Long Securities Corporation II and Lawrence Sherman Jay jointly denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

Respondent Thomas William Scott denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

Respondent John Nicholas Baker denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants Lester Berman, Kimi Berman, David W. Couch, Christine A. Couch, Leslie L. Briley, Jr., Travel Shoppers, Inc., requested compensatory damages of \$1,300,000.00 or according to proof. Claimant Herman Pettegrove requested compensatory damages of \$1,000,000.00. Claimants Jack W. Godebu, Lena K. Godebu, Frank D. Talbott, and Patricia J. Talbott requested compensatory damages of \$400,000.00. All claimants requested interest, punitive damages and costs of arbitration, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

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

On March 14, 2002, Claimants dismissed Respondent Thomas William Scott with prejudice.

On March 21, 2002, Claimants dismissed Respondent John Nicholas Baker with prejudice.

Due to inadvertent error, Claimants Jack W. Godebu, Lena K. Godebu, Frank D. Talbott, and Patricia J. Talbott did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement prior to the hearing of this case. However, Claimants Jack W. and Lena K. Godebu, both appeared and testified at the hearing, and Frank D. Talbott appeared and testified at the hearing, stating that he was representing his wife, Patricia J. Talbott, as well as himself. Further, each of the referenced Claimants executed a Uniform Submission Agreement prior to the service of this award and are therefore bound by the determination of the Panel on all issues submitted.

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, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Long Securities Corporation II and Lawrence Sherman Jay are jointly and severally liable to and shall pay Claimants Lester Berman and Kimi Berman the sum of \$219,865.00 in compensatory damages.
- 2) Respondents Long Securities Corporation II and Lawrence Sherman Jay are jointly and severally liable to and shall pay Claimants David W. Couch and Christine A. Couch the sum of \$369,648.00 in compensatory damages.
- 3) Respondents Long Securities Corporation II and Lawrence Sherman Jay are jointly and severally liable to and shall pay Claimant Leslie L. Briley, Jr. the sum of \$419,814.00 in compensatory damages.
- 4) Respondents Long Securities Corporation II and Lawrence Sherman Jay are jointly and severally liable to and shall pay Claimants Jack W. Godebu and Lena K. Godebu the sum of \$2,818.00 in compensatory damages.
- 5) Respondents Long Securities Corporation II and Lawrence Sherman Jay are jointly and severally liable to and shall pay Claimants Frank D. Talbott and Patricia J. Talbott the sum of \$74,489.00 in compensatory damages.
- 6) Claimants Travel Shoppers, Inc.'s and Herman Pettegrove's claims against Long Securities Corporation II and Lawrence Sherman Jay are denied.
- 7) Claimants Lester and Kimi Berman's, David W. and Christine A. Couch's, Leslie L. Briley, Jr.'s, Travel Shoppers, Inc.'s, Herman Pettegrove's, Jack W. Godebu's, Lena K. Godebu's, Frank D. Talbott's, and Patricia J. Talbott's, claims against Wedbush Morgan Securities, Inc. are denied.
- 8) The parties shall bear their respective costs, including attorney's fees.
- 9) 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 = \$ 500.00

#### 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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firms Wedbush Morgan Securities, Inc. and Long Securities Corporation II are parties and the following fees are assessed to each:

Member Surcharge = \$ 2,500.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Process Fee = \$ 4,500.00

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**Total Member Fees = \$ 7,600.00**

#### 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 Chair/Panel. The following fees are assessed:

(3) Pre-hearing conference sessions with a single arbitrator @ \$ 450/session = \$ 1,350.00

Pre-hearing conferences: July 24, 2001 1 session  
August 20, 2001 1 session  
February 26, 2002 1 session

(3) Pre-hearing conference sessions with the Panel @ \$1,200/session = \$ 3,600.00

Pre-hearing conferences: September 20, 2000 1 session  
October 9, 2001 1 session  
January 18, 2002 1 session

(12) Hearing sessions @ \$1200/session = \$14,400.00

Hearings: March 14, 2002 2 sessions  
March 15, 2002 2 sessions  
March 18, 2002 2 sessions  
March 19, 2002 2 sessions  
March 20, 2002 2 sessions  
March 21, 2002 2 sessions

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**Total Forum Fees = \$19,350.00**

1. The Panel assessed \$9,675.00 of the forum fees jointly and severally to Claimants Lester Berman, Kimi Berman, David W. Couch, Christine A. Couch, Leslie L. Briley, Jr., Travel Shoppers, Inc., Herman Pettegrove, Jack W. Godebu, Lena K. Godebu, Frank D. Talbott, and Patricia J. Talbott.
2. The Panel assessed \$9,675.00 of the forum fees jointly and severally to Respondents Long Securities Corporation II and Lawrence Sherman Jay.

### Fee Summary

1. Claimants are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 9,675.00
Total Fees	= \$10,175.00
<u>Less payments</u>	= \$(2,750.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 7,425.00</b>
2. Respondent Wedbush Morgan Securities, Inc., Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
<u>Less payments</u>	= \$(7,600.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 0.00</b>
3. Respondent Long Securities Corporation II is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 7,600.00</b>
4. Respondents Long Securities Corporation II and Lawrence Sherman Jay are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 9,675.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 9,675.00</b>

All balances are payable to NASD Dispute Resolution, Inc. and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

*Richard B. Chess, Jr., Esq.*  
*Richard B. Bullock*

*Public Arbitrator, Presiding Chair*  
*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

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*Richard B. Chess, Jr., Esq.*  
Chair, Public Arbitrator

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Signature Date

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*Richard B. Bullock*  
Richard B. Bullock  
Non-Public Arbitrator

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*4/6/02*  
Signature Date

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*4/9/02*  
Date of Service

**ARBITRATION PANEL**

**Richard B. Chess, Jr., Esq.**  
**Richard B. Bullock**

**Public Arbitrator, Presiding Chair**  
**Non-Public Arbitrator**

**Concerning Arbitrators' Signatures**

  
**Richard B. Chess, Jr., Esq.**  
**Chair, Public Arbitrator**

April 5, 2002  
**Signature Date**

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**Richard B. Bullock**  
**Non-Public Arbitrator**

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**Signature Date**

4/9/02  
**Date of Service**