

**AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

William J. Somerville, Mary Lou Somerville,  
Jon M. Somerville, and Jennifer A. Somerville

and

00-00546  
Troy, Michigan

Sigma Financial Corporation  
Hansen & Hansen, Inc., Jerome S. Rydell,  
Michael J. Brooks, and Wayne H. Hansen

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**REPRESENTATION OF PARTIES**

William J. Somerville, Mary Lou Somerville, Jon M. Somerville and Jennifer A. Somerville, collectively referred to as "Claimants," were represented by Frederick J. Boncher, Esq., Schenk & Boncher, Grand Rapids, Michigan. Claimants were represented by Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan, until on or about April 4, 2001.

Sigma Financial Corporation ("Sigma"), Hansen & Hansen Inc. ("H&H"), Jerome S. Rydell ("Rydell"), Michael J. Brooks ("Brooks") and Wayne H. Hansen ("Hansen"), hereinafter referred to as "Respondents," were represented by Joseph H. Spiegel, Esq., Ann Arbor, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 28, 2000. The Submission Agreement of Claimants William J. Somerville, Mary Lou Somerville, Jon M. Somerville, and Jennifer Somerville was signed on or about February 3, 2000.

The Joint Statement of Answer was filed by all Respondents on or about April 17, 2000. The Amended Statement of Answer was filed by all Respondents on or about July 30, 2001. Respondent Brooks signed the Uniform Submission Agreement individually and on behalf of Respondent Sigma on or about March 14, 2000. Respondent Hansen signed the Submission Agreement individually and on behalf of H&H on or about March 13, 2000. Respondent Rydell signed the Submission agreement on or about March 17, 2000.

All Respondents jointly filed a Notice of Fault on or about April 17, 2000. Claimants' Response to Notice of Fault was filed on or about May 4, 2000. Respondents' Reply to Claimants' Response to Notice of Fault was filed on or about May 11, 2000.

Respondents' Motion to Dismiss Claims was filed on or about: August 1, 2002. Claimants' Response to Respondents' Motion to Dismiss Claims was filed on or about August 6, 2002.

### **CASE SUMMARY**

Claimants asserted the following legal theories: breach of fiduciary duty, misrepresentations, omissions, deceptive devices, violation of NASD rules, breach of contract, respondeat superior, liability of control persons, officers and directors, due diligence and sale of unregistered securities. The causes of action relate to the purchase and sale of mortgage pools established by Mortgage Corporation of America.

Unless specifically admitted in their Answer and Amended Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the statutes of limitations and fraud, the Statement of Claim fails to state a claim upon which relief can be granted, it further lacks details necessary to any suitability or fraud claims, Claimants' claims are barred in whole or in part by Claimants' failure to join necessary or indispensable parties, the Statement of Claim is barred by the doctrines of laches, estoppel, and assumption of risk.

### **RELIEF REQUESTED**

Claimants' requested an award in the amount of \$200,000, plus advisory fees, interest, and lost opportunity, or such other amount as may be determined, Claimant also requested rescission, costs and attorney's fees.

Respondents requested that the claims asserted against them be dismissed and that they be awarded their costs, attorneys' fees and such other relief the panel deems equitable and just.

### **OTHER ISSUES CONSIDERED & DECIDED**

Claimants' and Respondents' Pre-trial Briefs were filed on or about July 22, 2002.

The Panel denied Respondents' Motion to Dismiss Claims received after the conclusion of the hearing.

At hearing, Claimants orally advised the Panel that they voluntarily dismissed Count II as it related to the Michigan Consumer Protection Act, Count III and Count VIII of the Statement of Claim.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all, are denied with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including punitive and exemplary damages, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain 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 persons at the time of the events giving rise to the dispute. In this matter, the member firms are Sigma Financial Corporation and Hansen & Hansen, Inc.

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

#### **Adjournment Fees**

Adjournments requested during these proceedings:

July 23-25, 2001, adjournment by Claimants = \$1,125.00  
March 11-13, 2002, adjournment by Claimants = \$1,000.00

### **Forum Fees and Assessments**

The Arbitration 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:

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: September 28, 2000	1 session
July 17, 2002	1 session
One (1) Pre-hearing session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: December 27, 2001	1 session
Five (5) Hearing sessions x \$1,125.00	= \$ 5,625.00
Hearing Dates: July 23, 2002	3 sessions
July 24, 2002	2 sessions
Total Forum Fees	= \$ 8,325.00

The Arbitration Panel has assessed \$4,162.50 of the forum fees jointly and severally to Claimants.

The Arbitration Panel has assessed \$4,162.50 of the forum fees jointly and severally to Respondents.

### **Fee Summary**

Claimants, William J. Somerville, Mary Somerville, Jon M. Somerville, and Jennifer A. Somerville are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 2,125.00
Forum Fees	= \$ 4,162.50
Total Fees	= \$ 6,587.50
Less payments	= \$ 3,902.55
Balance Due NASD Dispute Resolution	= \$ 2,684.95

Respondent, Sigma Financial Corporation Inc. is liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution	= \$ 2,500.00

Respondent, Hansen & Hansen, Inc. is liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,600.00

Respondents, Sigma Financial Corporation, Hansen & Hansen, Inc., Jerome S. Rydell, and Michael J. Brooks and Wayne Hansen are jointly and severally liable for:

Forum Fees	= \$ 4,162.50
Total Fees	= \$ 4,162.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,162.50

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Robert J. Scafuri, Esq. - Public Arbitrator, Presiding Chair  
Stephen P. Ormond, Esq. - Public Arbitrator  
Keith J. Koerber - Non-Public Arbitrator

*Concurring Arbitrators:*

/s/ Robert J. Scafuri, Esq.  
Robert J. Scafuri, Esq.  
Public Arbitrator, Presiding Chair

09/03/02  
Signature Date

/s/ Stephen P. Ormond, Esq.  
Stephen P. Ormond, Esq.  
Public Arbitrator

08/29/02  
Signature Date

/s/ Keith J. Koerber  
Keith J. Koerber  
Non-Public Arbitrator

08/28/02  
Signature Date

09/03/02  
Date of Service (For NASD office use only)

Respondents, Sigma Financial Corporation, Hansen & Hansen, Inc., Jerome S. Rydell, and Michael J. Brooks and Wayne Hansen are jointly and severally liable for:

Forum Fees	= \$ 4,162.50
Total Fees	= \$ 4,162.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,162.50

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Public Arbitrator, Presiding Chair

Signature Date

  
Stephen P. Ormond, Esq.  
Public Arbitrator

8/29/02  
Signature Date

Keith J. Koerber  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 00-00546  
Award Page 5 of 5

Respondents, Sigma Financial Corporation, Hansen & Hansen, Inc., Jerome S. Rydell, and Michael J. Brooks and Wayne Hansen are jointly and severally liable for:

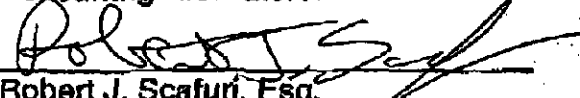
Forum Fees	= \$ 4,162.50
Total Fees	= \$ 4,162.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,162.50

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Keith J. Koerber  
Non-Public Arbitrator

8-28-2002  
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