

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

---

In the Matter of the Arbitration Between

Names of Claimants

James M. May, III and Carolyn R. May,  
individually, and James M. May, III  
and Lewis W. May as Trustees of the  
James M. May Trust

Case No. 00-03381

Names of Respondents

Sterne, Agee & Leach, Inc.  
Thomas Newton Schallhorn

Hearing Site: Little Rock, Arkansas

---

**REPRESENTATION OF PARTIES**

For James M. May, III ("James May") and Carolyn R. May ("Carolyn May"), individually, and James M. May, III and Lewis W. May as Trustees of the James M. May Trust (the "Trust"), hereinafter collectively referred to as "Claimants": Gary P. Barket, Esq., Little Rock, AR.

For Respondent Sterne, Agee & Leach, Inc. ("SAL"): Ashley M. Brown, Esq., Compliance Officer, SAL, Birmingham, AL.

For Respondent Thomas Newton Schallhorn ("Schallhorn"): Michael R. Johns, Esq., Dover & Dixon, P.A., Little Rock, AR.

**CASE INFORMATION**

Statement of Claim filed on or about: August 7, 2000.

Claimants signed the Uniform Submission Agreement: July 31, 2000.

Statement of Answer filed by Respondent SAL on or about: December 26, 2000.

Respondent SAL signed the Uniform Submission Agreement: December 22, 2000.

Statement of Answer filed by Respondent Schallhorn on or about: October 27, 2000.

Respondent Schallhorn signed the Uniform Submission Agreement: October 24, 2000.

**CASE SUMMARY**

Claimants asserted the following causes of action: violations of the NASD Rules of Fair Practice; unsuitability; excessive and unauthorized transactions; violation of NASD Rule 2510(c); and, violations of NASD and SEC record keeping requirements. The causes of

action relate to the purchase and sale of unspecified security products.

Unless specifically admitted in its Answer, Respondent SAL denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: Claimants' claims are barred by applicable statutes of limitations and/or by the doctrine of laches; Claimants' claims are barred by waiver, ratification and estoppel; and, Claimants confirmed all of the subject transactions.

Unless specifically admitted in his Answer, Respondent Schallhorn denied the allegations made in the Statement of Claim and asserted that all purchases and sales were authorized and that there was no excessive trading.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of approximately \$138,245.00, opportunity losses of \$181,033.00, pre and post-judgment interest, costs, and attorneys' fees.

Respondent SAL requested dismissal of the Statement of Claim.

Respondent Schallhorn requested dismissal of the Statement of Claim.

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

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents SAL and Schallhorn are liable, jointly and severally, and shall pay to Claimant, the Trust, the sum of \$39,631.00 plus interest at the rate of six percent (6%) per annum accruing from January 1, 1996 until the date of payment of the Award.

Claimants James May and Carolyn May's claims are dismissed, with prejudice.

Respondents SAL and Schallhorn are liable, jointly and severally, and shall pay to Claimants the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimants to NASD Dispute Resolution, Inc.

All other relief requests not specifically addressed herein are denied.

### FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$300.00
--------------------------	------------

#### 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 person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

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

#### Forum Fees and Assessments

The Panel has the authority to assess 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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: March 5, 2001 1 session	

Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: May 23, 2001 2 sessions	
May 24, 2001 2 sessions	

---

Total Forum Fees	= \$5,625.00
------------------	--------------

The Panel has assessed the total forum fees of \$5,625.00 jointly and severally to Respondents SAL and Schallhorn.

### Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$300.00
--------------------	------------

---

Total Fees	= \$300.00
Less payments	= \$300.00

---

Balance Due NASD Dispute Resolution, Inc.	= \$0.00
---	----------

Respondent SAL be and hereby is solely liable for:

Member Fees = \$4,600.00

---

Total Fees = \$4,600.00

Less payments = \$4,000.00

---

Balance Due NASD Dispute Resolution, Inc. = \$600.00

Respondents SAL and Schallhorn be and hereby are jointly and severally liable for:

Forum Fees = \$5,625.00

---

Total Fees = \$5,625.00

Less payments = \$0.00

---

Balance Due NASD Dispute Resolution, Inc. = \$5,625.00

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

**ARBITRATION PANEL**

Robert E. Hornberger	-	Public Arbitrator, Presiding Chair
Richard C. Downing, Esq.	-	Public Arbitrator
Richard D. Bingham	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

---

Robert B. Hornberger  
Public Arbitrator, Presiding Chair

---

Signature Date

/s/

---

Richard C. Downing, Esq.  
Public Arbitrator

---

Signature Date

---

Richard D. Bingham  
Non-Public Arbitrator

---

Signature Date

June 29, 2001

Date of Service (For NASD-Dispute Resolution office use only)

Respondent SAL be and hereby is solely liable for:

Member Fees = \$4,600.00

Total Fees = \$4,600.00

Less payments = \$4,000.00

Balance Due NASD Dispute Resolution, Inc. = \$600.00

Respondents SAL and Schallhorn be and hereby are jointly and severally liable for:

Forum Fees = \$5,625.00

Total Fees = \$5,625.00

Less payments = \$0.00


Balance Due NASD Dispute Resolution, Inc. = \$5,625.00

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

### ARBITRATION PANEL

Robert E. Hornberger	-	Public Arbitrator, Presiding Chair
Richard C. Downing, Esq.	-	Public Arbitrator
Richard D. Bingham	-	Non-Public Arbitrator

#### Concurring Arbitrators' Signatures

  
Robert B. Hornberger  
Public Arbitrator, Presiding Chair

6/28/01  
Signature Date

Richard C. Downing, Esq.  
Public Arbitrator

Signature Date

Richard D. Bingham  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

Respondent SAL be and hereby is solely liable for:

Member Fees = \$4,600.00

Total Fees = \$4,600.00

Less payments = \$4,000.00

Balance Due NASD Dispute Resolution, Inc. = \$600.00

Respondents SAL and Schallhorn be and hereby are jointly and severally liable for:

Forum Fees = \$5,625.00

Total Fees = \$5,625.00

Less payments = \$0.00

Balance Due NASD Dispute Resolution, Inc. = \$5,625.00

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

**ARBITRATION PANEL**

Robert E. Hornberger	-	Public Arbitrator, Presiding Chair
Richard C. Downing, Esq.	-	Public Arbitrator
Richard D. Bingham	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Robert B. Hornberger  
Public Arbitrator, Presiding Chair



Richard C. Downing, Esq.  
Public Arbitrator

Signature Date

6-27-01

Signature Date

Richard D. Bingham  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)