

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

WILLIAM and SHIRLEY MORGAN, and
KEVIN and KELLY SULLIVAN,

Claimants,

vs.

EAST-WEST CAPITAL CORPORATION
and DONALD G. TERNS,

Respondents.

Case Number: 00-05566

Hearing Site: Southfield, Michigan

REPRESENTATION OF PARTIES

Claimants William Morgan, Shirley Morgan, Kevin Sullivan and Kelly Sullivan ("Claimants,") were represented by Anthony V. Trogan, Esq. of Anthony V. Trogan P.L.L.C., Crown Center Building, 7031 Orchard Lake Road, Suite 203, West Bloomfield, Michigan 48322.

Respondent Donald G. Terns ("Respondent Terns") was represented by Dennis J. Levasseur, Esq. and William B. Forrest III, Esq. of Bodman, Longley & Dahling LLP, 100 Renaissance Center, Suite 3400, Detroit, Michigan 48243.

CASE INFORMATION

Statement of Claim filed on or about December 11, 2000. Claimants each filed a Uniform Submission Agreement on or about December 11, 2000.

Motion to Dismiss, Or Alternatively, For A More Definite Statement and Answer and Affirmative Defenses filed by Respondent Terns on or about February 6, 2001. Respondent Terns filed a Uniform Submission Agreement on or about February 6, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, common law fraud, conspiracy, promissory estoppel, conversion, negligence, malpractice, breach of fiduciary duty, and violation of Michigan securities laws in connection with Claimants' purchase of certain investments.

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Unless specifically admitted in his answer and affirmative defenses to Claimants' statement of claim, Respondent Terns denied the allegations made in the statement of claim. Respondent Terns also asserted that the losses that Claimants complained about were due to trading activity that Claimants authorized and initiated based on full disclosure to them of the risks associated with that activity. Respondent Terns also asserted that Claimants failed to state a claim upon which relief could be granted, that Respondent Terns did not owe Claimants a fiduciary duty, that Claimants' claims were not ripe for adjudication, that Claimants' claims were barred by the applicable statute of limitations and the doctrines of comparative or contributory negligence and ratification, and that Claimants fully understood and willingly assumed the risks associated with the subject investments.

RELIEF REQUESTED

Claimants requested damages in the amount of \$179,570 plus interest, costs, and attorney fees. Claimants also requested exemplary damages and punitive damages.

Respondent Terns requested that Claimants' claims be dismissed in their entirety and that he recover his costs, including attorney fees.

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims are dismissed with prejudice in their entirety against Respondent Terns;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Terns' registration records maintained by the NASD Central Registration Depository (CRD No. 725597), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Terns must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 3.) That any relief not specifically enumerated, including exemplary and/or punitive damages, is hereby denied with prejudice.

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FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

Forum Fees and Assessments

The 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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: May 17, 2001 1 session	
Total Forum Fees	= \$1,125.00

Pursuant to NASD Dispute Resolution, Inc. Code of Arbitration Procedure Rule 10332(f): Claimants' Hearing Session Deposit of \$1,125.00 is retained by NASD.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent Terns, requested Awards = \$15.00.

Fee Summary

Claimants, William Morgan, Shirley Morgan, Kevin Sullivan and Kelly Sullivan, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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Respondent, Donald G. Terns, be and hereby is solely liable for:

<u>Administrative Costs</u>	= \$	15.00
<u>Total Fees</u>	= \$	15.00
<u>Less payments</u>	= \$	15.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$	0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Harvey Frank – Public Arbitrator, Presiding Chair
Frederick R. Fordon - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Harvey Frank
Harvey Frank, Presiding Chair
Public Arbitrator

05/06/02
Signature Date

/s/ Frederick F. Fordon
Frederick F. Fordon
Public Arbitrator

05/07/02
Signature Date

/s/ William C. Kubicz
William C. Kubicz
Non-Public Arbitrator

05/07/02
Signature Date

05/08/02
Date of Service (for NASD use only)

NASD Dispute Resolution, Inc.
Arbitration # 00-05566
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Concurring Arbitrators:

Harvey Frank, Presiding Chair
Public Arbitrator

Signature Date

Frederick F. Fordon
Frederick F. Fordon
Public Arbitrator

5/7/02
Signature Date

William C. Kubicz
Non-Public Arbitrator

Signature Date

Date of Service (for NASD use only)

5/06/02 MON 08:49 FAX

NASD REGULATION

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NASD Dispute Resolution
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Harvey Frank, Presiding Chair
Public Arbitrator

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Fredrick F. Fordon
Public Arbitrator

Signature Date

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NASD Dispute Resolution, Inc.
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