

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

JAMES L. MAY, Individually and
as Trustee of the JAMES MAY TRUST
and MARY AILEEN MAY,
Individually and as Trustee of the
MARY AILEEN MAY TRUST,

Claimants

- against-

Case No. 00-005582

JEFFREY S. SWARTZ and
MATTHEW MALONEY,

Respondents,
Counter-Claimants,
and Third-Party
Claimants

-against-

DANIEL MAY,

Third-Party Respondent
and Counter-Claimant

REPRESENTATION OF PARTIES

Claimants James L. May, Individually and as Trustee of the James May Trust and Mary Aileen May, Individually and as Trustee of the Mary Aileen May Trust ("Claimants") were represented by James L. May.

Respondents, Counter-Claimants and Third-Party Claimants Jeffrey S. Swartz and Matthew Maloney ("Respondents") were represented by Attorney Jeffrey S. Dunlap, Esq. of Ulmer & Berne LLP of Cleveland, Ohio.

Third-Party Respondent and Counter-Claimant Daniel May ("Third-Party Respondent") was represented by Michael Todd McIntosh, Esq. of McIntosh & McIntosh of Cincinnati, Ohio.

CASE INFORMATION

Statement of Claim filed on or about December 10, 2000

Claimants signed Uniform Submission Agreements on or about December 10, 2000

Statement of Answer, Counter-Claim and Third-Party Complaint filed by Respondents on or about March 2, 2001

Respondents signed Uniform Submission Agreements on or about March 2, 2001

Statement of Answer to Counter-Claim filed by Claimants on or about May 7, 2001

Response to Third-Party Complaint and Counter-Claim filed by Third-Party Respondent on or about May 7, 2001

Third-Party Respondent did not sign a Uniform Submission Agreement

Answer to Third-Party Counter-Claim filed by Respondents on or about May 16, 2001

CASE SUMMARY

Claimants asserted the following causes of action against Respondent Jeffrey Swartz, the former Cincinnati branch manager, in connection with the pre-hiring negotiations for Claimants' son: misrepresentation, fraud in the inducement, and breach of contract. Claimants asserted the following cause of action against Respondent Jeffrey Swartz in connection with Claimants' son's employment period: misrepresentation, fraud, breach of fiduciary duty, failure to supervise associate and non-licensed branch employees, and failure to register personnel. Claimants asserted the following causes of action against Respondent Matthew Maloney, the Cincinnati branch manager, in connection with Claimants' son's employment period: breach of contract and breach of fiduciary duty.

Respondents denied the allegations made by Claimants.

Respondents asserted the following causes of action against Claimants: expungement, abuse of process. These causes of action arise out of the filing of the Statement of Claim.

Claimants denied the allegations made by Respondents.

Respondents asserted the following causes of action against Third-Party Respondent: common law indemnification and contribution. These causes of action arise out of the alleged handling of Claimants' accounts by Third-Party Respondent.

Third-Party Respondent denied the allegations made by Respondents.

Third-Party Respondent asserted the following cause of action against Respondents: defamation. This cause of action arises out of the filing of the Third-Party Complaint.

Respondents denied the allegations made by Third-Party Respondent.

RELIEF REQUESTED

Claimants requested the following damages:

Compensatory Damages	\$20,000
Punitive Damages	\$80,000
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Respondents requested dismissal of Claimants' claims against them.

Respondents requested the following damages:

Compensatory Damages	Unspecified
Attorneys' Fees	Unspecified

Claimants requested dismissal of Respondents' claims against them.

Third-Party Respondent requested dismissal of Respondents' claims against him.

Third-Party Respondent requested the following damages:

Compensatory Damages	Unspecified
Attorneys' Fees	Unspecified

Respondents requested dismissal of Third-Party Respondent's claims against them.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing, all parties agreed to enter a Stipulated Award as detailed below. This Stipulated Award is being submitted to the Panel for its consideration.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

In July, 2002, the parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a full hearing and upon motion of all parties for entry of an award, the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

1. Respondents shall pay to Claimants the sum of Six Thousand Dollars (\$6000.00).
2. Respondents shall pay to Third-Party Respondent the sum of Three Thousand Nine Hundred Ninety Nine Dollars (\$3999.00).
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jeffrey S. Swartz's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Jeffrey S. Swartz must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to 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	= \$225.00
Counterclaim filing fee (Respondents)	= \$250.00
Counterclaim filing fee (Third-Party Respondent)	= \$250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm Morgan Stanley is the Respondents' firm.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$600.00
<u>Hearing process fee</u>	<u>= \$1,500.00</u>
	= \$3,100.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

(2) Pre-hearing conference sessions with the Panel @ \$1,000.00/session	= \$2,000.00
Pre-hearing conference(s): July 12, 2001	1 Session
December 12, 2001	1 Session

Total Forum Fees	= \$2,000.00
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1. The Panel has assessed the forum fees evenly among the parties. Thus, Claimants shall be assessed 33%, Respondents shall be assessed 33% and Third-Party Respondent shall be assessed 33%.

Fee Summary

1. Claimants be and hereby are solely liable for:

Initial Filing Fee	= \$225.00
<u>Forum Fees</u>	= \$ 666.00
Total Fees	= \$ 891.00
<u>Less Payments</u>	= \$ 975.00
Balance to be refunded by NASD Dispute Resolution, Inc.	= \$ 84.00

2. Respondents be and hereby are jointly and severally liable for:

Counterclaim filing fee	= \$250.00
Forum Fees	= \$668.00
<u>Less Payments</u>	= \$ 00.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 918.00

3. Morgan Stanley be and hereby is solely liable for:

Member Fees	= \$3,100.00
Total Fees	= \$3,100.00
<u>Less payments</u>	= \$3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 00.00

4. Third-Party be and hereby is solely liable for:

Counter-claim filing fee	= \$250.00
<u>Forum Fees</u>	= \$ 666.00
Total Fees	= \$ 916.00
<u>Less payments</u>	= \$1250.00

NASD Dispute Resolution, Inc.
Arbitration Case # 00-05582
Page 6 of 8

Balance to be refunded by NASD Dispute Resolution, Inc. = \$334.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Parties' Signatures

James L. May, individually and (Claimant)
as Trustee of the James May Trust

*James L. May, Individually
Trustee of the James May Trust*

August 7, 2002
Signature Date

Mary Aileen May, individually and (Claimant)
as Trustee of the Mary Aileen May Trust

Mary Aileen May

August 7, 2002
Signature Date

Jeffrey S. Swartz (Respondent)

Signature Date

Matthew Maloney (Respondent)

Signature Date

Daniel May (Third-Party Respondent)

Signature Date

NASD Dispute Resolution, Inc.
Arbitration Case # 00-05582
Page 7 of 8

Parties' Signatures

James L. May, individually and
as Trustee of the James May Trust

(Claimant)

Signature Date

Mary Aileen May, individually and
as Trustee of the Mary Aileen May Trust

(Claimant)

Signature Date

Jeffrey S. Swartz

(Respondent)

Jeffrey S. Swartz

8-7-02

Signature Date

Matthew Maloney

(Respondent)

Signature Date

Daniel May

(Third-Party Respondent)

Signature Date

NASD Dispute Resolution, Inc.
Arbitration Case # 00-03582
Page 7 of 8

Parties' Signatures

James L. May, individually and (Claimant)
as Trustee of the James May Trust

Signature Date

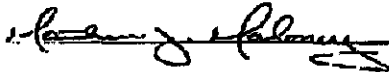
Mary Aileen May, individually and (Claimant)
as Trustee of the Mary Aileen May Trust

Signature Date

Jeffrey S. Swartz (Respondent)

Signature Date

Matthew Maloney (Respondent)



8/7/02
Signature Date

Daniel May (Third-Party Respondent)

Signature Date

Aug-06-02 06:21pm

From: ULMER & BERNE

+12166217488

T-797 P.08

F-698

NASD Dispute Resolution, Inc.
Arbitration Case # 00-05582
Page 7 of 8

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as Trustee of the James May Trust

(Claimant)

Signature Date

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as Trustee of the Mary Aileen May Trust

(Claimant)

Signature Date

Jeffrey S. Swartz

(Respondent)

Signature Date

Matthew Maloney

(Respondent)

Signature Date

Daniel May

(Third-Party Respondent)

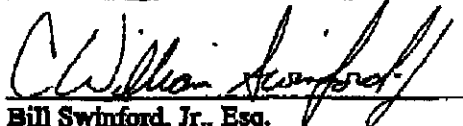
Daniel May

8/7/02
Signature Date

ARBITRATION PANEL

Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Lisa Shusterman	-	Public Arbitrator
David Hertl, CMFC	-	Industry Arbitrator

Concurring Arbitrators' Signatures



Bill Swinford, Jr., Esq.
Public Arbitrator, Presiding Chair

8-26-02
Signature Date

Lisa Shusterman
Public Arbitrator, Panelist

Signature Date

David Hertl, CMFC
Non Public Arbitrator, Panelist

Signature Date

September 13, 2002
Date Stipulated Award Served by NASD-DR
(For NASD office use only)

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Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Lisa Shusterman	-	Public Arbitrator
David Hertl, CMFC	-	Industry Arbitrator

Concurring Arbitrators' Signatures

Bill Swinford, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date



Lisa Shusterman
Public Arbitrator, Panelist

9.26.02

Signature Date

David Hertl, CMFC
Non Public Arbitrator, Panelist

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Lisa Shusterman
Public Arbitrator, Panelist

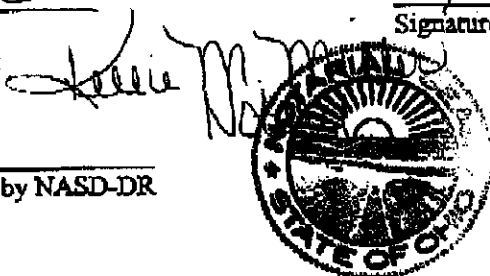
Signature Date

David Hertl, CMFC
Non Public Arbitrator, Panelist

9/21/02
Signature Date

September 13, 2002

Date Stipulated Award Served by NASD-DR
(For NASD office use only)



KELLIE M. MILLER
Notary Public, State of Ohio
My Commission Expires
06/28/04