
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

David May,
David Franklin May, II, and
M&M Enterprises, Inc.,
Claimants

Vs.

Case Number: 01-02950

Stifel, Nicolaus & Company, Inc.,
Roger G. Bonn, and
Regald B. Smith,
Respondents.

Hearing Site: Louisville, Kentucky

REPRESENTATION OF PARTIES

Claimants David May, David Franklin May, II, and M&M Enterprises, Inc. ("Claimants"), were represented by Mark E. Maddox, Esquire, and Andrew J. Stoltmann, Esquire, of Maddox Hargett & Caruso, P.C., Indianapolis, Indiana, and by D. B. Kazee, Esquire, of Kazee, Kinner, Chafin, Heaberlin & Patton, Prestonburg, Kentucky.

Thomas E. Douglass, Esquire, and Kenton E. Knickmeyer, Esquire, of Thompson Coburn, LLP, St. Louis, Missouri, represented Respondents Stifel, Nicolaus & Company, Inc. ("Stifel Nicolaus"), and Roger G. Bonn ("Bonn").

Respondent Regald B. Smith ("Smith") appeared at the hearing as a witness, but was not represented by counsel.

CASE INFORMATION

The Statement of Claim was filed on or about June 4, 2001.

David May signed the Uniform Submission Agreement on May 31, 2001.

David Franklin May, II, signed the Uniform Submission Agreement on his own behalf and, as a partner, on behalf of M&M Enterprises, Inc., on May 31, 2001.

Stifel Nicolaus and Bonn filed a joint Statement of Answer on or about July 30, 2001.

Forrest M. Smith, First Vice President of Stifel Nicolaus, signed the Uniform Submission Agreement on its behalf on December 3, 2001.

Bonn signed the Uniform Submission Agreement on December 3, 2001.

Smith did not file an Answer or a properly executed Uniform Submission Agreement.

CASE SUMMARY

Claimants alleged the following against Respondents: violations of federal securities laws, violations of the Kentucky Securities Act (Blue Sky Law), violations of the Kentucky Revised Statutes, violations of NASD and NYSE rules, breach of fiduciary duty, misrepresentations, failure to supervise, unsuitability, churning, misappropriation, omissions, negligence, negligent supervision, and common law fraud. These allegations involved transactions in common stocks, including purchases of stock on margin.

Unless specifically admitted their joint Statement of Answer, Respondents Stifel Nicolaus and Bonn denied the allegations set forth in the Statement of Claim and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted, estoppel, waiver, ratification, and state and federal bars to any award of punitive damages.

RELIEF REQUESTED

Claimants requested the following relief:

Compensatory Damages	\$11,765,376.95
Punitive Damages	not specified
Interest	not specified
Costs	not specified
Attorneys' Fees	not specified
Other Relief	not specified

Respondents Stifel Nicolaus and Bonn requested that the claims against them be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 19, 2002, Claimants David May, David Franklin May, II, and M&M Enterprises, Inc., dismissed all claims against Respondent Roger G. Bonn in this matter with prejudice. Accordingly, no award is entered with respect to Respondent Roger G. Bonn.

At the hearing, the undersigned Panel was made aware of an Order appointing a receiver for Respondent Regald B. Smith, which was entered by the United States District Court, Eastern District of Kentucky, Lexington Division, prior to the filing of this action. The Order stays all actions against Respondent Regald B. Smith, including the claims of Claimants David May, David Franklin May, II, and M&M Enterprises, Inc., in this matter. Accordingly, no award is entered with respect to Respondent Regald B. Smith.

At the close of Claimants' case at the hearing, Claimants David May, David Franklin May, II, and M&M Enterprises, Inc., dismissed all claims asserted in the Statement of Claim, except for those claims filed under the Kentucky Blue Sky Law.

At the close of Claimants' case at the hearing, Respondent Stifel, Nicolaus & Company, Inc., moved for a directed verdict in its favor. The undersigned Panel ruled that it would defer ruling on the motion until after the presentation of Respondent's case in its defense, and that the Respondent could incorporate the motion by reference in its closing argument.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the undersigned Panel finds in full and final resolution of the issues submitted for determination as follows:

1. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for, and shall pay to Claimant David May, the sum of \$2,335,626.33 (Two Million Three Hundred Thirty-five Thousand Six Hundred Twenty-six Dollars and Thirty-three Cents) as compensatory damages, inclusive of interest through September 30, 2002.
2. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for, and shall pay to Claimant David Franklin May, II, the sum of \$2,020,392.00 (Two Million Twenty Thousand Three Hundred Ninety-two Dollars and No Cents) as compensatory damages, inclusive of interest through September 30, 2002.
3. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for, and shall pay to Claimants David May and David Franklin May, II, the sum of \$117,500.00 (One Hundred Seventeen Thousand Five Hundred Dollars and No Cents) as attorneys' fees. The Panel finds that it has the authority to award attorneys' fees under the Kentucky Securities Act, K. R. S. §292.480(1)(2).
4. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for, and shall pay to Claimants David May, David Franklin May, II, and M&M Enterprises, Inc., the sum of \$600.00 (Six Hundred Dollars and No Cents) as reimbursement of the non-refundable filing fee paid to NASD Dispute Resolution by Claimants.
5. Except as noted in paragraph # 4 above, all claims filed by Claimant M&M Enterprises, Inc., against Respondent Stifel, Nicolaus & Company, Inc., are denied with prejudice.

6. Except as otherwise specified herein, each party shall bear its own costs and expenses.
7. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 600.00
--------------------------	-------------

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	= \$3,600.00
Pre-hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$5,000.00

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 Panel that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with single arbitrator x \$450	= \$ 450.00
Pre-hearing conference: April 18, 2002 1 session	

One (1) Pre-hearing session with the Panel x \$1,200	= \$ 1,200.00
Pre-hearing conference: December 4, 2001 1 session	

Twelve (12) Hearing sessions x \$1,200	= \$14,400.00
--	---------------

Hearing Dates:	September 23, 2002	2 sessions
	September 24, 2002	3 sessions
	September 25, 2002	2 sessions
	September 26, 2002	2 sessions
	September 27, 2002	3 sessions

Total Forum Fees	= \$16,050.00
------------------	---------------

10-15-02 TUE 10:45 FAX

NASD REGULATION

007

NASD Dispute Resolution
Arbitration # 01-02950
Page 5 of 5

The Panel has assessed all forum fees solely to Respondent Stifel, Nicolaus & Company, Inc.

FEES SUMMARY

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 1,800.00
<u>Refund Due to Claimants</u>	= \$ 1,200.00

2. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for:

<u>Member Fees</u>	= \$ 9,200.00
<u>Forum Fees</u>	= \$16,050.00
<u>Total Fees</u>	= \$25,250.00
<u>Less payments</u>	= \$ 9,200.00
<u>Balance Due to NASD Dispute Resolution</u>	= \$16,050.00

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Jeffrey M. Bain, Esq. -
John P. McShane -
Stuart S. Billington -

Public Arbitrator, Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jeffrey M. Bain, Esq.
Public Arbitrator

October 15, 2002
Signature Date

John P. McShane
John P. McShane
Public Arbitrator

Signature Date

Stuart S. Billington
Stuart S. Billington
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration # 01-02930
Page 5 of 5

The Panel has assessed all forum fees solely to Respondent Stifel, Nicolaus & Company, Inc.

FEE SUMMARY

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 1,800.00
Refund Due to Claimants	= \$ 1,200.00

2. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for:

Member Fees	= \$ 9,200.00
Forum Fees	= \$16,050.00
Total Fees	= \$25,250.00
Less payments	= \$ 9,200.00
Balance Due to NASD Dispute Resolution	= \$16,050.00

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Jeffrey M. Bain, Esq.	-	Public Arbitrator, Chairperson
John P. McShane	-	Public Arbitrator
Stuart S. Billington	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jeffrey M. Bain, Esq.
Public Arbitrator

Signature Date

John P. McShane
Public Arbitrator

10-15-02
Signature Date

Stuart S. Billington
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration # 01-02950
Page 5 of 5

The Panel has assessed all forum fees solely to Respondent Stifel, Nicolaus & Company, Inc.

FEE SUMMARY

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 1,800.00
<u>Refund Due to Claimants</u>	= \$ 1,200.00

2. Respondent Stifel, Nicolaus & Company, Inc., is solely liable for:

<u>Member Fees</u>	= \$ 9,200.00
<u>Forum Fees</u>	= \$16,050.00
<u>Total Fees</u>	= \$25,250.00
<u>Less payments</u>	= \$ 9,200.00
<u>Balance Due to NASD Dispute Resolution</u>	= \$16,050.00

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Jeffrey M. Bain, Esq.
John P. McShane
Stuart S. Billington

Public Arbitrator, Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jeffrey M. Bain, Esq.
Public Arbitrator

Signature Date

John P. McShane
Public Arbitrator

Signature Date

Stuart S. Billington
Non-Public Arbitrator

Signature Date

OCT. 15, 2002

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