

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between: ---

Moira N. Noonan, Individually and as Trustee of the Noonan-Ferry Family Trust UAD 4/13/99,  
Claimant v. M.L. Stern & Co., LLC and Michael S. Butsko, Respondents

Case Number: 01-03236

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimant:

G. Mark Brewer, Esq.  
The Brewer Law Firm  
La Jolla, California

For Respondents:

James D. Portman, Esq.  
M. L. Stern & Co., LLC  
Beverly Hills, California

**CASE INFORMATION**

Statement of Claim filed: June 13, 2001

Claimant's Uniform Submission Agreement signed: June 28, 2001

Joint Statement of Answer filed by Respondents M.L. Stern & Co., LLC and Michael S. Butsko:  
October 15, 2001

Respondents M.L. Stern & Co., LLC and Michael S. Butsko's Errata to Joint Statement of  
Answer filed: October 27, 2001

Respondent M.L. Stern & Co., LLC's Uniform Submission Agreement signed: October 3, 2001

**CASE SUMMARY**

Claimant alleged suitability and unauthorized trading. The dispute involved the purchase and/or  
sale of Boston Chicken, Inc. and Loehmann's, Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$37,526.97, interest, attorney's fees, and arbitration costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and arbitration costs.

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

On May 29, 2002, NASD Dispute Resolution received notice that the parties reached a settlement of all claims in this matter.

Respondent Michael S. Butsko did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

The parties 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 and the Parties' request for Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Each and every one of Claimant's claims asserted against Respondents M.L. Stern & Co., LLC and Michael S. Butsko are dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael S. Butsko's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Michael S. Butsko must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 175.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm M.L. Stern & Co., LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 1,000.00
<b>Total Member Fees</b>	<b>= \$ 2,400.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$600.00/session	= \$ 600.00
Pre-hearing conference: February 21, 2002 1 session	

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<b>Total Forum Fees</b>	<b>= \$ 600.00</b>
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1. The Panel assessed \$300.00 of the forum fees to Claimant Moira N. Noonan, Individually and as Trustee of the Noonan-Ferry Family Trust UAD 4/13/99.
2. The Panel assessed \$300.00 of the forum fees jointly and severally to Respondents M.L. Stern & Co., LLC and Michael S. Butsko.

**Fee Summary**

1. Claimant Moira N. Noonan, Individually and as Trustee of the Noonan-Ferry Family Trust  
UAD 4/13/99 is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 300.00
Retained Hearing Session Deposit Pursuant to Rule 10332(f)	= \$ 300.00
Total Fees	= \$ 775.00
<u>Less payments</u>	= \$( 775.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent M.L. Stern & Co., LLC is charged with the following fees and costs:

Member Fees	= \$ 2,400.00
<u>Less payments</u>	= \$(2,400.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents M.L. Stern & Co., LLC and Michael S. Butsko are charged jointly and severally  
with the following fees and costs:

Forum Fees	= \$ 300.00
<u>Less payments</u>	= \$( 300.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Parties' Signatures

Moir N. Noonan

Moir N. Noonan, Individually  
and as Trustee of the Noonan-Ferry  
Family Trust UAD 4/13/99  
Claimant

4/2/03  
Signature Date

[Signature]  
M.L. Stern & Co., LLC  
Respondent

3/12/03  
Signature Date

[Signature]  
Michael Hutsko  
Respondent

3/17/03  
Signature Date

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**ARBITRATION PANEL**

Joseph Winter

Public Arbitrator, Presiding Chair

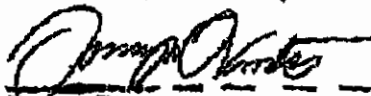
Joseph H. Hoff

Public Arbitrator

Carl W. Valock, Jr.

Non-Public Arbitrator

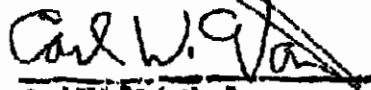
**Co-arbitrating Arbitrators' Signatures**

  
Joseph Winter  
Chair, Public Arbitrator

April 15, 2003  
Signature Date

Joseph H. Hoff  
Public Arbitrator

                      
Signature Date

  
Carl W. Valock, Jr.  
Non-Public Arbitrator

8-8-03  
Signature Date

9/30/03  
Date of Service