

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Richard W. and Marcia E. Cardwell

Case Number: 02-04689

Name of the Respondent
Spelman & Co., Inc.

Hearing Site: Indianapolis, Indiana

REPRESENTATION OF PARTIES

Claimants Richard W. and Marcia E. Cardwell, hereinafter collectively referred to as "Claimants": Mark E. Maddox, Esq. of the firm of Maddox Hargett & Caruso, P.C., located in Fishers, Indiana.

Respondent Spelman & Co., Inc., hereinafter referred to as "Respondent": Keith R. Conrad, Esq. of Frost Brown Todd LLC, located in New Albany, New York.

CASE INFORMATION

Statement of Claim filed: August 9, 2002.

Claimant signed the Uniform Submission Agreement: July 31, 2003.

Statement of Answer filed by Respondent: October 23, 2002.

Respondent signed the Uniform Submission Agreement: October 16, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: violations of the Indiana Securities Act; unsuitable investments; breach of contract; breach of fiduciary duty and constructive fraud; violation of the NASD Conduct Rules; negligence and negligent supervision; and Respondeat Superior. These causes of action resulted from Respondents recommended investments in an annuity and a high-yield bond fund.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted several defenses, including the following:

1. The claims are barred by the doctrines of ratification, waiver, comparative fault and equitable estoppel; and,
2. Claimants failed to make any reasonable effort to mitigate damages.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$850,000.00
Punitive Damages	Unspecified amount
Interest	8% per Indiana Securities Act
Attorneys' Fees	Reasonable amount pursuant to the Indiana Securities Act
Other Costs	Pursuant to the Indiana Securities Act
Plus other Monetary/Non-Monetary Relief, if any.	

Respondent requested that the claim be denied.

OTHER ISSUES CONSIDERED AND DECIDED

At hearing, Claimant moved that the total damages claimed be reduced by \$100,000.00 and that the claim for punitive damages be withdrawn. The Panel granted Claimants' motion.

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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Spelman & Co., Inc. is liable for and shall pay to the Claimants, Richard W. and Marcia E. Cardwell, the sum of \$52,500.00 in compensatory damages, plus interest in the amount of \$6,300.00, for a total of \$58,800.00;
2. In addition, Respondent Spelman & Co., Inc. is liable for and shall pay to the Claimants, Richard W. and Marcia E. Cardwell, the sum of \$21,200.00 as attorneys' fees. In deciding to award attorneys' fees, the Panel considered the arguments of counsel, as well as Indiana Code Section 23-2-1-19, and determined that authority existed for an award of attorneys' fees to the Claimants;
3. The parties shall bear their own costs of arbitration, including any additional attorneys' fees, except for those sums specifically enumerated in this decision; and,
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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 375.00

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 at the time of the events giving rise to the dispute. Accordingly, Spelman & Co., Inc. is a party and the following member fees are assessed:

Member surcharge = \$ 2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 @ \$1,200.00 = \$ 1,200.00
Pre-hearing conference: February 20, 2003 1 session

Five (5) Hearing sessions @ \$1,200.00 = \$ 6,000.00
Hearing Dates: June 24, 2003 2 sessions
June 25, 2003 2 sessions
June 26, 2003 1 session

Total Forum Fees = \$ 7,200.00

The Panel has assessed \$ 7,200.00 of the forum fees to Respondent Spelman & Co., Inc.

EEE SUMMARY

Claimants Richard W. and Marcia E. Cardwell are jointly and severally liable for liable for:

Initial Filing Fee = \$ 375.00
Less payments = \$ 1,575.00
Refund Due from NASD Dispute Resolution = \$ 1,200.00

Respondent Spelman & Co., Inc. is solely liable for:

Member Fees = \$ 7,000.00
Forum Fees = \$ 7,200.00

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NASD Dispute Resolution, Inc.
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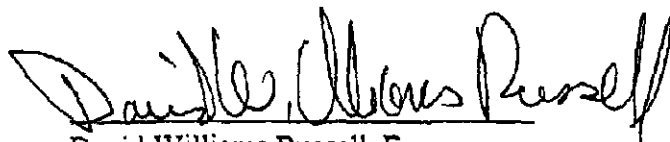
Total Fees	= \$14,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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

ARBITRATION PANEL

David Williams Russell, Esq. - Public Arbitrator, Presiding Chairperson
 Donald G. Fletcher - Public Arbitrator
 Sandra J. Bakalus - Non-Public Arbitrator

Concurring Arbitrators' Signatures



David Williams Russell, Esq.
 Public Arbitrator, Presiding Chairperson

July 22, 2003
 Signature Date

 Donald G. Fletcher
 Public Arbitrator

 Signature Date

 Sandra J. Bakalus
 Non-Public Arbitrator

 Signature Date

7/29/03 MM
 Date of Service (For NASD Dispute Resolution office use only)

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David Williams Russell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Donald G. Fletcher
Donald G. Fletcher
Public Arbitrator

7/28/03
Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Donald G. Fletcher
Public Arbitrator

Signature Date

Sandra J. Bakalus
Sandra J. Bakalus
Non-Public Arbitrator

7/23/03
Signature Date

7/29/03 Man
Date of Service (For NASD Dispute Resolution office use only)