

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Stanley H. Mindell Trust and Marc Mindell, Claimants v. Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. and Christopher W. Inglis, Respondents

Case Number: 02-04764

Hearing Site: San Francisco, California

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Paul J. Smoot, Esq.
Merrill B. Emerick, Esq.
Anderlini, Finkelstein & Emerick
San Mateo, California

For Respondents:

Charles J. Murray, Esq.
Lewis Brisbois Bisgaard & Smith
San Francisco, California

CASE INFORMATION

Statement of Claim filed: August 12, 2002

Claimants' Joint Uniform Submission Agreement signed: August 8, 2002

Joint Statement of Answer filed by Respondents: October 22, 2002

Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc.'s Uniform Submission Agreement: None filed

Respondent Christopher W. Inglis' Uniform Submission Agreements: February 4, 2004

CASE SUMMARY

Claimants alleged financial elder abuse, fraud, negligence and breach of fiduciary duty. Claimant's allegations involved American General Corp. and Tjiwi Kimia bonds.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$187,844.16, unspecified punitive damages, interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On April 9, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 22, 2003, Respondents' counsel signed a Waiver Agreement on behalf of Respondents expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. did not file with the NASD Dispute Resolution a properly executed submission agreement; however, said Respondent is required to submit to arbitration and, having answered the claim and having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Claimant Marc Mindell died in September 2003. On his death, the claim passed to his brother Stanley Mindell.. Stanley Mindell died before the evidentiary hearing. Harold Mindell, the successor trustee under the terms of The Stanley H. Mindell Trust, appeared and represented the Trust at the hearing.

During closing arguments at the hearing, Claimant waived claims for financial elder abuse and fraud.

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

1. Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. is liable to and shall pay Claimant The Stanley H. Mindell Trust the sum of \$164,670.00 in compensatory damages.
2. Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. is liable to and shall pay Claimant The Stanley H. Mindell Trust interest in the amount of 10% per annum on \$164,670.00 from February 1, 2001 to February 4, 2004.
3. Respondent Christopher W. Inglis is dismissed with prejudice.
4. The parties shall bear their respective costs, including attorney's fees.
5. 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	= \$ 300.00
--------------------------	-------------

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 Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

November, 2003 Hearing Dates, adjournment requested by Respondents: Fee assessed to Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities Inc:	= \$ 1,125.00
--	---------------

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 Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00	
Pre-hearing conference: September 24, 2003 1 session	

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,125.00	
Pre-hearing conference: May 27, 2003 1 session	

Three (3) Hearing sessions @ \$1,125.00/session = \$ 3,375.00	
Hearings: February 3, 2004 1 session	
February 4, 2004 2 sessions	

Total Forum Fees	= \$ 4,950.00
-------------------------	----------------------

The Panel assessed the entire amount of \$4,950.00 of the forum fees to Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Less payments	= \$(1,800.00)
Refund Due from NASD Dispute Resolution	= \$(1,500.00)

2. Respondent Thomas F. White and Company, Inc. n/k/a Acument Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$11,275.00
Less payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$11,275.00

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.

ARBITRATION PANEL

Helen B. Culmer, Esq.
Paul D. Gutierrez, Esq.
Dana K. Welch, Esq.

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Helen B. Culmer
Helen B. Culmer, Esq.
Chair, Public Arbitrator

2-17-04
Signature Date

Paul D. Gutierrez, Esq.
Paul D. Gutierrez, Esq.
Public Arbitrator

Signature Date

Dana K. Welch, Esq.
Dana K. Welch, Esq.
Non-Public Arbitrator

Signature Date

2/18/04
Date of Service

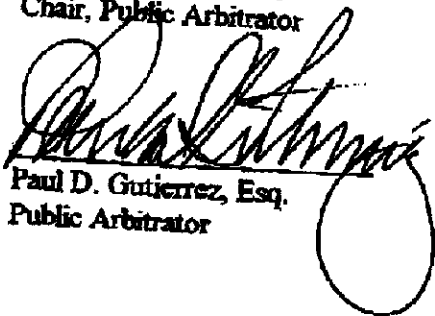
ARBITRATION PANEL

Helen B. Culiner, Esq.
Paul D. Gutierrez, Esq.
Dana K. Welch, Esq.

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Helen B. Culiner, Esq.
Chair, Public Arbitrator



Paul D. Gutierrez, Esq.
Public Arbitrator

Signature Date

February 18, 2004
Signature Date

Dana K. Welch, Esq.
Non-Public Arbitrator

Signature Date

2/18/04
Date of Service

ARBITRATION PANEL

Helen B. Culmer, Esq.	-	Public Arbitrator, Presiding Chair
Paul D. Gutierrez, Esq.	-	Public Arbitrator
Dana K. Welch, Esq.	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Helen B. Culmer, Esq.
Chair, Public Arbitrator

Signature Date

Paul D. Gutierrez, Esq.
Public Arbitrator

Signature Date


Dana K. Welch, Esq.
Non-Public Arbitrator

2/18/04
Signature Date

2/18/04
Date of Service