

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William S. Gach and Martha Woods, (Claimants) v. Sigma Financial Corporation and William R. Henzey, (Respondents)

Case Number: 02-05544

Hearing Site: Cleveland, Ohio

REPRESENTATION OF PARTIES

Claimants, William S. Gach ("Gach") and Martha Woods ("Woods"), hereinafter collectively referred to as "Claimants": Jonathan E. Rosenbaum, Esq., Rosenbaum & Muhek, Elyria, OH.

Respondents, Sigma Financial Corporation ("Sigma") and William R. Henzey ("Henzey"), hereinafter collectively referred to as "Respondents": Jonathan C. Uretsky, Esq., Winget Spadafora & Schwartzberg, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: September 23, 2002.

Claimant Gach signed the Uniform Submission Agreement: September 13, 2002.

Claimant Woods signed the Uniform Submission Agreement: September 13, 2002.

Joint Statement of Answer filed by Respondents on or about: November 12, 2002.

Joint Amended Response to the Statement of Claim and Motion to Dismiss filed by Respondents on or about: January 23, 2003.

Respondents Sigma and Henzey did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability, misrepresentation, negligence, breach of fiduciary duty, churning, and failure to supervise. Claimants' claim involved securities in Baron Capital Trust

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages in the amount of \$81,500.00;
2. Interest on the monies invested in Baron Capital Trust;
3. Punitive damages in the amount of \$10,000.00;
4. Reimbursement of the costs incurred in arbitrating this matter including attorney's fees, forum fees, witness and production fees and any other costs incurred in recouping their loss through the arbitration process.

Respondent requested an award dismissing the Statement of Claim, to have this proceeding expunged from their records, and affording such other and further relief as the Panel deems just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On January 23, 2003, Respondents made a Motion to Dismiss. The Panel granted the Motion with respect to Claimants' churning claim. The Panel denied the Motion with respect to all other claims.

Respondents Sigma and Henzey did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but are required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

The parties have 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. Respondents Sigma and Henzey are jointly and severally liable for and shall pay Claimant Gach the sum of \$71,500.00 as compensatory damages.
2. Respondents Sigma and Henzy are jointly and severally liable for and shall pay Claimant Gach interest in the sum of \$11,024.00.
3. Respondents Sigma and Henzey are jointly and severally liable for and shall pay Claimant Woods the sum of \$10,000.00 as compensatory damages.
4. Respondents Sigma and Henzy are jointly and severally liable for and shall pay

Claimant Woods interest in the sum of \$1,962.00.

5. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$225.00 to reimburse Claimants for the non-refundable filing fee previously paid to NASD Dispute Resolution.
6. Claimants are ordered to transfer all rights, title, and interest in Baron Capital Trust to the Respondents.
7. Any and all relief not specifically addressed herein including punitive damages 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	= \$225.00
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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, Sigma Financial Corporation is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: March 13, 2003	1 session

Six (6) Hearing sessions @ \$750.00	= \$4,500.00
Hearing Dates: July 8, 2003	2 sessions
July 9, 2003	2 sessions
July 10, 2003	2 sessions

Total Forum Fees	= \$5,250.00
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1. The Panel has assessed all of the forum fees jointly and severally against Respondents Sigma and Henzey.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
<u>Refund Due</u>	= \$ 750.00

As stated in the "Award" section above, Respondents shall reimburse Claimants for the \$225.00 non-refundable filing fee.

2. Respondent Sigma is solely liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

4. Respondents Sigma and Henzey are jointly and severally liable for:

<u>Forum Fees</u>	= \$5,250.00
<u>Balance Due NASD Dispute Resolution</u>	= \$5,250.00


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

ARBITRATION PANEL

Harold C. Reeder, Esq.	-	Public Arbitrator, Presiding Chair
Jonathan I. Klein, Esq.	-	Public Arbitrator
Howard A. Slater, MBA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, that I am the individual described herein and who executed this instrument is which is my award.



Harold C. Reeder, Esq.
Public Arbitrator, Presiding Chairperson

7/24/03

Signature Date

Jonathan I. Klein, Esq.
Public Arbitrator

Signature Date

Howard A. Slater, MBA
Non-Public Arbitrator

Signature Date

August 11, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


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Public Arbitrator, Presiding Chairperson

Signature Date

Jonathan I. Klein, Esq.
Public Arbitrator

Signature Date



Howard A. Slater, MBA
Non-Public Arbitrator

8/7/03

Signature Date

August 11, 2003
Date of Service (For NASD Dispute Resolution use only)