

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

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In the Matter of the Arbitration Between:

Ronald E. Tendler and Carrie J. Tendler as Co-Trustees of the Tendler Family Trust dtd 5/14/90,  
Claimant v. J.P. Morgan Securities Inc., Derek C. Clark, Maurice G. Stuffmann, Jr., and Robert  
S. Simmons, Respondents

Case Number: 02-05889

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimant:

Jeff Dennis Ferentz, Esq.  
Law Offices of Jeff Dennis Ferentz, Inc.  
Newport Beach, California

For Respondents:

Susan L. Hoffman, Esq.  
Bingham McCutchen LLP  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: September 24, 2002

Claimant's Uniform Submission Agreement signed: September 17, 2002

Joint Statement of Answer filed by Respondents: December 4, 2002

Respondent J.P. Morgan Securities Inc.'s Uniform Submission Agreement signed:  
December 3, 2002

Respondent Derek C. Clark's Uniform Submission Agreement signed: August 4, 2003

Respondent Maurice G. Stuffmann, Jr.'s Uniform Submission Agreement signed:  
October 23, 2002

Respondent Robert S. Simmons' Uniform Submission Agreement signed: October 23, 2002

### **CASE SUMMARY**

Claimant alleged fraud, deceit, omission of material fact, misrepresentations, negligence, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, failure to supervise, and violations of NASD, NYSE, federal and California securities laws, rules and regulations. Claimant's allegations involved transactions in unspecified securities.

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

### **RELIEF REQUESTED**

Claimant requested \$180,079.00 in compensatory damages, pre- and post-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

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

On March 17, 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.

On June 24, 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 June 15, 2004, NASD Dispute Resolution received notice of settlement from Claimant.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **STIPULATION**

The parties stipulate that all claims asserted by Claimant against Respondents have been resolved. The parties further stipulate that all outstanding forum fees shall be divided equally between Claimant and Respondents.

**AWARD**

After considering the pleadings and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have agreed to settle this matter for a sum certain to be paid in full by Respondent J.P. Morgan Securities Inc.
2. Claimant's claims are dismissed in their entirety with prejudice.
3. Discovery in this matter has established grounds for withdrawal of the claims in the Statement of Claim against Respondents Derek C. Clark, Maurice G. Stuffmann, Jr., and Robert S. Simmons
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Derek C. Clark'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 Derek C. Clark must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Maurice G. Stuffmann'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 Maurice G. Stuffmann must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
6. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert S. Simmons' 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 Robert S. Simmons must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
7. The parties shall bear their respective costs and expenses, including attorney's fees.
8. All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure ("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
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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 J.P. Morgan 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>
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

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

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

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: September 16, 2003 1 session	

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<b>Total Forum Fees</b>	<b>= \$ 1,125.00</b>
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1. The Panel assessed \$562.50 of the forum fees to Claimant.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents J.P. Morgan Securities, Inc., Derek C. Clark, Maurice G. Stuffmann, and Robert S. Simmons.

#### **Adjournment Fees**

The following adjournment fees are assessed:

June 21-24, 2004 adjournment requested by the parties	= \$ WAIVED
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**FEE SUMMARY**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$(1,425.50)
Refund paid to Claimant	= \$ (562.50)

2. Respondent J.P. Morgan Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents J.P. Morgan Securities, Inc., Derek C. Clark, Maurice G. Stuffmann, and Robert S. Simmons are charged jointly and severally with the following fees and costs:

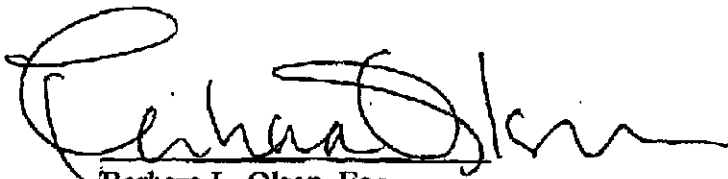
Forum Fees	= \$ 562.50
Less payments by Respondent J.P. Morgan Securities, Inc.	= \$ (875.00)
Refund paid to Respondent J.P. Morgan Securities, Inc.	= \$ (312.50)

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

Barbara L. Olsen, Esq.	-	Public Arbitrator, Presiding Chair
Terry A. O'Connell	-	Public Arbitrator
Jeffrey E. Skogsbergh	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Barbara L. Olsen, Esq.  
Chair, Public Arbitrator

7/18/05  
Signature Date

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Terry A. O'Connell  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Jeffrey E. Skogsbergh  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

8/25/05  
Date of Service

**ARBITRATION PANEL**

Barbara L. Olsen, Esq.	-	Public Arbitrator, Presiding Chair
Terry A. O'Connell	-	Public Arbitrator
Jeffrey E. Skogsbergh	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Barbara L. Olsen, Esq.  
Chair, Public Arbitrator

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Signature Date

  
Terry A. O'Connell  
Public Arbitrator

8/20/05  
Signature Date

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Jeffrey E. Skogsbergh  
Non-Public Arbitrator

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Signature Date

8/25/05  
Date of Service

ARBITRATION PANEL

Barbara L. Olsen, Esq.	-	Public Arbitrator, Presiding Chair
Terry A. O'Connell	-	Public Arbitrator
Jeffrey E. Skogsbergh	-	Non-Public Arbitrator

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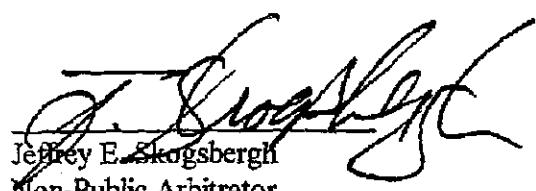
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Terry A. O'Connell  
Public Arbitrator

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Signature Date



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Jeffrey E. Skogsbergh  
Non-Public Arbitrator

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7/19/05  
Signature Date

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8/25/05  
Date of Service