

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael Schwartz, Claimant v. JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc., Terence J. Creighton, Jr., and Mary K. Foust, Respondents

Case Number: 02-06035

Hearing Site: Honolulu, Hawaii

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

REPRESENTATION OF PARTIES

For Claimant:

Ira P. Rothken, Esq.
Rothken Law Firm
San Rafael, California

For Respondents:

Peter R. Boutin, Esq.
Cara L. Meredith, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: October 8, 20002

Claimant's Uniform Submission Agreement signed: September 23, 2002

Joint Statement of Answer filed by Respondents JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc., Terence J. Creighton, Jr., and Mary K. Foust: January 27, 2003

Respondent JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc.'s Uniform Submission Agreement signed: January 8, 2003

Respondent Terence J. Creighton, Jr.'s Uniform Submission Agreement signed:
December 31, 2002

Respondent Mary K. Foust's Uniform Submission Agreement signed: January 22, 2003

CASE SUMMARY

Claimant alleged, inter alia, that his JP Morgan Securities, Inc. accounts were mishandled. The allegations included breach of contract, fraud, negligent misrepresentation, churning, breach of fiduciary duty, failure to supervise, and suitability. The dispute involved the purchase and/or sale of unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted a number of affirmative defenses, including estoppel, waiver, comparative fault, failure to mitigate damages, and failure to exercise due diligence.

RELIEF REQUESTED

Claimant requested damages in excess of \$3,500,000.00, rescissory damages, pre-judgment interest, punitive damages, attorney's fees, costs, and other relief.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety. Additionally, Respondents Terence J. Creighton, Jr. and Mary K. Foust requested the Panel recommend the expungement of all references to this matter from their CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant and Respondents have reached a confidential settlement of this case whereby they have agreed upon this Stipulated Award as part of that settlement which includes expungement of Terence J. Creighton, Jr. and Mary K. Foust's CRD records.

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

It is hereby stipulated by Claimant and Respondents, through their undersigned attorney's of record, that:

- 1) All of Claimant's claims asserted against the Respondents are hereby dismissed with prejudice.
- 2) Claimant does not object to the panel rendering the following award:

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Terence J. Creighton, Jr.'s and Mary K. Foust'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, Respondents Terence J. Creighton, Jr. and Mary K. Foust must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

AWARD

After considering the Stipulation, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are dismissed with prejudice.
- 2) Based solely on the settlement agreement of the parties to this case, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Terence J. Creighton, Jr.'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 Terence J. Creighton, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Based solely on the settlement agreement of the parties to this case, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mary K. Foust'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 Mary K. Foust must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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 = \$ 600.00

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 JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc. is a party and the following fees are assessed:

Member Surcharge = \$ 2,800.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$ 5,000.00

Total Member Fees = \$ 8,550.00

Adjournment Fees

The following adjournment fees are assessed:

Hearing Dates, August 18, 2003 – August 22, 2003 = \$ 1,200.00

1. The Panel assessed \$600.00 of the postponement fee to Claimant Michael Schwartz
2. The Panel assessed \$600.00 of the postponement fee jointly and severally to Respondents JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc., Terence J. Creighton, Jr., and Mary K. Foust.

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:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00

Pre-hearing conferences: April 10, 2003 1 session

June 12, 2003 1 session

Total Forum Fees = \$ 2,400.00

1. The Panel assessed \$1,200.00 of the forum fees to Claimant Michael Schwartz.
2. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Respondents JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc., Terence J. Creighton, Jr., and Mary K. Foust.

Fee Summary

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

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 2,400.00
<u>Less payments</u>	= <u>\$(1,800.00)</u>
Balance Due NASD Dispute Resolution	= \$ 600.00

2. Respondent JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc. is charged with the following fees and costs:

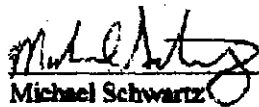
Member Fees	= \$ 8,550.00
<u>Less payments</u>	= <u>\$(8,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc., Terence J. Creighton, Jr., and Mary K. Foust are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,800.00
Less payments by JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc.	= <u>\$(5,600.00)</u>
Refund Due JP Morgan H&Q/Chase Securities, Inc. aka JP Morgan Securities, Inc.	= <u>\$(3,800.00)</u>

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



Michael Schwartz

Claimant

Signature Date

JP Morgan H&Q/Chase Securities, Inc.
aka JP Morgan Securities, Inc.
Respondent

Signature Date

Terence J. Creighton, Jr.
Respondent

Signature Date


Mary K. Foust
Respondent

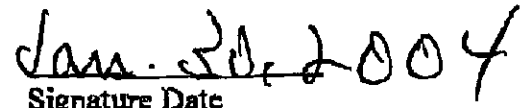
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Parties' Signatures

Michael Schwartz
Claimant

Signature Date

for 
JP Morgan H&Q/Chase Securities, Inc.
aka JP Morgan Securities, Inc.
Respondent


Signature Date

Terence J. Creighton, Jr.
Respondent

Signature Date

Mary K. Foust
Respondent

Signature Date

Parties' Signatures

Michael Schwartz
Claimant

Signature Date

JP Morgan H&Q/Chase Securities, Inc.
aka JP Morgan Securities, Inc.
Respondent

Signature Date



Terence J. Creighton, Jr.
Respondent



Signature Date

Mary K. Foust
Respondent

Signature Date

Parties' Signatures

Michael Schwartz
Claimant

Signature Date

JP Morgan H&Q/Chase Securities, Inc.
aka JP Morgan Securities, Inc.
Respondent


Signature Date

Terence J. Creighton, Jr.
Respondent

Signature Date



Mary K. Houst
Respondent

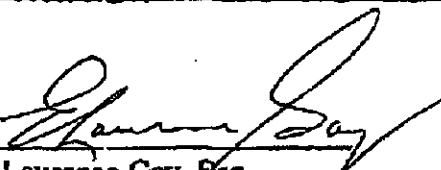


Signature Date

ARBITRATION PANEL

E. Laurence Gay, Esq.	-	Public Arbitrator, Presiding Chair
Ronald I. Heller, Esq.	-	Public Arbitrator
Randy A. Harris, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



E. Laurence Gay, Esq.
Chair, Public Arbitrator

Feb. 5, 2004
Signature Date

Ronald I. Heller, Esq.
Public Arbitrator

Signature Date

Randy A. Harris, Esq.
Non-Public Arbitrator


Signature Date

March 8, 2004
Date of Service

State of Hawaii ss:

City and County of Honolulu

On this 5 day of February 2004, before me personally appeared
E. Laurence Gay to me known and known before me to be the individual described in and who executed
the foregoing instrument and he/she duly acknowledged that he/she executed the same.

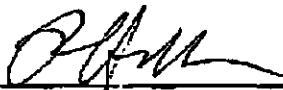
 Jennifer M. Giovanetti
Notary Public, State of Hawaii
My commission expires: August 3, 2004
Jennifer M. Giovanetti

ARBITRATION PANEL

E. Laurence Gay, Esq.	-	Public Arbitrator, Presiding Chair
Ronald I. Heller, Esq.	-	Public Arbitrator
Randy A. Harris, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

E. Laurence Gay, Esq.
Chair, Public Arbitrator



Ronald I. Heller, Esq.
Public Arbitrator

Signature Date

2/5/04

Signature Date

Randy A. Harris, Esq.
Non-Public Arbitrator


Signature Date

March 8, 2004
Date of Service

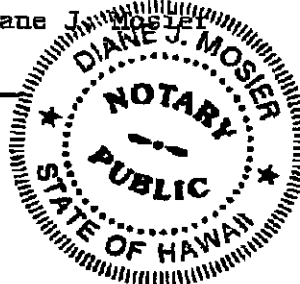
State of Hawaii ss:

City and County of Honolulu

On this 5th day of February 20 04, before me personally appeared RONALD I. HELLER to me known and known before me to be the individual described in and who executed the foregoing instrument and he/she duly acknowledged that he/she executed the same.


Notary Public, State of Hawaii
My commission expires: 10/17/06

Diane J. Mosier



ARBITRATION PANEL

E. Laurence Gay, Esq.	-	Public Arbitrator, Presiding Chair
Ronald I. Heller, Esq.	-	Public Arbitrator
Randy A. Harris, Esq.	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

E. Laurence Gay, Esq.
Chair, Public Arbitrator

Signature Date

Ronald I. Heller, Esq.
Public Arbitrator

Signature Date



Randy A. Harris, Esq.
Non-Public Arbitrator

2/18/04

Signature Date

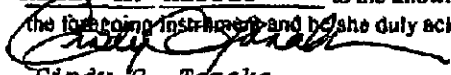
March 8, 2004

Date of Service

State of Hawaii ss:

City and County of Honolulu

On this 18th day of February 2004, before me personally appeared
Randy A. Harris to me known and known before me to be the individual described in and who executed
the foregoing instrument and he/she duly acknowledged that he/she executed the same.



Cindy C. Tanaka
Notary Public, State of Hawaii
My commission expires: May 2, 2004

