

**Award
NASD**

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-06319

Madeline Wall, Amy Wall
Bobker and Marcia Wall

Name of the Respondent

Hearing Site: Boca Raton, Florida

Mark Simon

REPRESENTATION OF PARTIES

For Madeline Wall, Amy Wall Bobker and Marcia Wall, hereinafter collectively referred to as "Claimants": Darren C. Blum, Esq., Law Offices of Darren C. Blum, P.A., Plantation, Florida.

For Mark Simon, hereinafter referred to as "Respondent": Lloyd R. Schwed, Esq. and Jeremy M. Colvin, Esq., Kubicki Draper, P.A., West Palm Beach, Florida.

CASE INFORMATION

This case was severed from Case No. 01-04695. In that case, the following pleadings were filed:

Statement of Claim filed on or about: September 4, 2001.

Amended Statement of Claim filed on or about: August 6, 2002.

Claimants signed the Uniform Submission Agreement: August 22, 2001.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: January 15, 2002.

Response to Motion to Dismiss filed by Claimants on or about: January 17, 2002.

Reply to Claimants' Response to Motion to Dismiss filed by Respondent on or about: February 25, 2002.

Respondent signed the Uniform Submission Agreement: February 5, 2002.

The following pleading was filed in this case:

Counterclaim for Expungement filed by Respondent on or about: November 12, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: violation of industry rules; violation of Florida Statute 517.301; breach of contract; breach of fiduciary duty; fraud; and, negligence. The causes of action relate to the purchase and sale of Applied Materials, Cisco Systems, EMC Corp., Intel, Microsoft, Oracle, Sun Microsystems, Xilinx and other unspecified securities in Claimants' account.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim, asserted various defenses and filed a Motion to Dismiss the Statement of Claim on the basis that it fails to specify the relevant facts against Respondent. In addition, Respondent filed a counterclaim for expungement.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$100,000.00, plus interest at the legal rate from the date of purchase or reasonable market return, rescission, attorney's fees to be determined by a court of competent jurisdiction, punitive damages, costs and other relief deemed just and proper.

Respondent requested judgment dismissing Claimants' claims, attorneys' fees and costs incurred in defending this matter and an order expunging all references to this matter from the licensing file of Respondent (CRD Number 4293211) including, but not limited to, the NASD Central Registration Depository ("CRD") files Forms U-4 and U-5.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 13, 2002, Claimants informed the NASD that all claims against Respondent were voluntarily dismissed, without prejudice. Respondent consented to the dismissal without prejudice.

On or about October 15, 2002, the Panel issued an order which granted Respondent's request for expungement of this matter from his registration records maintained by the NASD CRD.

This case was severed from NASD Arbitration Number 01-04695 *Madeline Wall et al. vs. Mark Simon et al.* where Respondent requested, and the Panel granted, immediate expungement of his CRD record. On or about October 22, 2002, the Panel issued the following order:

That NASD sever Respondent's request for expungement;

That NASD establish a new case with a new case number and with a caption of 02-06319 *Madeline Wall et al. vs. Mark Simon*. Said new case should not include any other Respondents from the original case;

That the Panel assigned to the underlying case be assigned to the new case;

That Respondent pay a \$125.00 filing fee within thirty (30) days in order for the NASD to process the expungement;

That the provisions of Rules 10314, 10321 and 10308 of the NASD Code of Arbitration Procedure (the "Code") do not apply to the new case; and,

That Claimants do not have to file an answer to the counterclaim in this new case.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above captioned arbitration, as well as the expungement of all references to NASD Arbitration Number 01-04695 *Madeline Wall et al. vs. Mark Simon et al.*, from Respondent's registration records maintained by the NASD CRD (CRD Number 4293211) including, but not limited to, Respondent's Forms U-4 and U-5, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

FEEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Counterclaim filing fee = \$125.00

Member Fees

No member fees were incurred in this matter.

Adjournment Fees

No requests for adjournment were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

No forum fees were incurred in this matter.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Respondent is solely liable for:

Counterclaim Filing Fee = \$125.00

Total Fees = \$125.00

Less payments = \$125.00

Balance Due NASD = \$0.00

ARBITRATION PANEL

Craig Edward Stein, Esq.	-	Public Arbitrator, Presiding Chair
Alvin Shulklapper	-	Public Arbitrator
Herbert Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

01/21/03

Craig Edward Stein, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

01/18/03

Alvin Shulklapper
Public Arbitrator

Signature Date

/s/

01/16/03

Herbert Schwartz
Non-Public Arbitrator

Signature Date

01/29/03

Date of Service (For NASD office use only)

FEE SUMMARY

Respondent is solely liable for:

Counterclaim Filing Fee = \$125.00

Total Fees = \$125.00

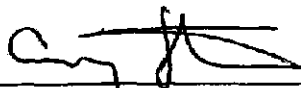
Less payments = \$125.00

Balance Due NASD = \$0.00

ARBITRATION PANEL

Craig Edward Stein, Esq.	-	Public Arbitrator, Presiding Chair
Alvin Shulklapper	-	Public Arbitrator
Herbert Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Craig Edward Stein, Esq.
Public Arbitrator, Presiding Chair

11/21/03

Signature Date

Alvin Shulklapper
Public Arbitrator

Signature Date

Herbert Schwartz
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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JAN 21 2003

FL ARBITRATION

FEE SUMMARY

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Less payments

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-

Public Arbitrator, Presiding Chair

Alvin Shulklapper

-

Public Arbitrator

Herbert Schwartz

-

Non-Public Arbitrator

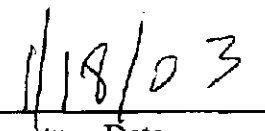
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Public Arbitrator, Presiding Chair

Signature Date



Alvin Shulklapper
Public Arbitrator



Signature Date

Herbert Schwartz
Non-Public Arbitrator

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Alvin Shulklapper	-	Public Arbitrator
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Concurring Arbitrators' Signatures

Craig Edward Stein, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Alvin Shulklapper
Public Arbitrator

Signature Date



Herbert Schwartz
Non-Public Arbitrator

1/16/03
Signature Date

Date of Service (For NASD office use only)