

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mary W. Sims Trust DTD 08/08/96, Mary W. Sims, Trustee, and Kenneth S. Sims (Claimants) v.
McDonald Investments, Inc. and Jeffrey P. Levesque (Respondents)

Case Number: 02-07024

Hearing Site: Cincinnati, Ohio

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

REPRESENTATION OF PARTIES

Claimants Mary W. Sims Trust DTD 08/08/96, Mary Sims, Trustee ("Sims Trust") and Kenneth S. Sims ("K. Sims") hereinafter collectively referred to as "Claimants": William K. Flynn, Esq., Strauss & Troy, LPA, Cincinnati, OH.

Respondent McDonald Investments, Inc. ("McDonald"): Russell S. Sayre, Esq., Taft, Stettinius & Hollister, LLP, Cincinnati, OH.

Respondent Jeffrey P. Levesque ("Levesque"): James P. Graven, Esq., Toledo, OH.

CASE INFORMATION

Statement of Claim filed on or about: November 15, 2002.

Sims Trust signed the Uniform Submission Agreement: October 18, 2002.

K. Sims signed the Uniform Submission Agreement: October 18, 2002.

Statement of Answer filed by McDonald on or about: February 11, 2003.

McDonald signed the Uniform Submission Agreement: December 10, 2002.

Statement of Answer filed by Levesque on or about: January 30, 2003.

Levesque signed the Uniform Submission Agreement: January 9, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: suitability; misrepresentation; breach of contract; breach of fiduciary duty; and negligence. The causes of action relate to variable annuities.

Unless specifically admitted in its Answer, McDonald denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Levesque denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$219,800.00, plus pre-award and post-award interest, costs, expert witness fees, attorneys' fees, and punitive damages in an amount that the Panel may deem appropriate, but not less than \$25,000.00.

McDonald requested dismissal of the Statement of Claim, an award in its favor of the costs of this proceeding, and such other and further relief as is just.

Levesque requested that the Panel deny Claimants' claim in its entirety, assess forum fees and costs to Claimants, and award such further relief and recovery to Levesque as is shown to be necessary and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. On December 18, 2003, the parties mediated their dispute under the auspice of NASD's mediation program, as a consequence of which the parties reached a full resolution of all claims which were brought, or which could have been brought, in the arbitration.
2. Claimant and all parties do not object to the filing of an expungement of the NASD Central Registration Depository's records of Jeffrey Levesque.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jeffrey Levesque's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Jeffrey Levesque must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

4. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$300.00
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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. In this matter, McDonald Investments, Inc. is a party.

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:

December 16, 17, and 18, 2003, adjournment requested by the parties	= Waived
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Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00	= \$1,125.00
<u>Pre-hearing conference: May 27, 2003 1 session</u>	
Total Forum Fees	= \$1,125.00

1. The Panel has assessed \$562.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents Levesque and McDonald.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
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<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 862.50
<u>Less payments</u>	= \$1,675.00
<u>Refund Due</u>	= \$ 812.50

2. McDonald is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

3. Respondents Levesque and McDonald are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 562.50

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures

Kenneth Sims
Kenneth Sims, Claimant

01/26/04
Signature Date

Mary Sims
Mary Sims, Claimant

1-26-04
Signature Date

Jeffrey P. Lovesque
Jeffrey P. Lovesque, Respondent

15-Jan-04
Signature Date

ARBITRATION PANEL

Randall Scott Strause, Esq.	-	Public Arbitrator, Presiding Chair
Carol M. Stoner, Esq.	-	Public Arbitrator
Stuart Arthur Reagan, Sr., CFA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Randall Scott Strause, Esq.
Public Arbitrator, Presiding Chair

3/22/04
Signature Date

Carol M. Stoner, Esq.
Public Arbitrator

Signature Date

Stuart Arthur Reagan, Sr., CFA
Non-Public Arbitrator

Signature Date

March 24, 2004
Date of Service (For NASD office use only)

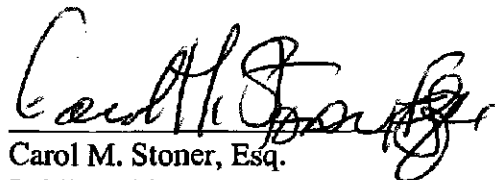
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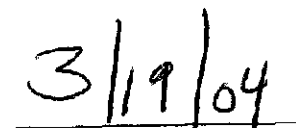
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Randall Scott Strause, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Carol M. Stoner, Esq.
Public Arbitrator



Signature Date

Stuart Arthur Reagan, Sr., CFA
Non-Public Arbitrator

Signature Date

March 24, 2004
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Concurring Arbitrators' Signatures

Randall Scott Strause, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Carol M. Stoner, Esq.
Public Arbitrator

Signature Date



Stuart Arthur Reagan, Sr., CFA
Non-Public Arbitrator

3-19-04
Signature Date

March 24, 2004
Date of Service (For NASD office use only)