
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Marilyn McCarthy, Individually and as Trustee
of the Marilyn McCarthy Trust

Case Number: 03-00460

Name of the Respondent

Asset Management Securities Corp.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member Firm.

REPRESENTATION OF PARTIES

For Marilyn McCarthy, Individually and as Trustee of the Marilyn McCarthy Trust, hereinafter referred to as "Claimant": Jeffrey Erez, Esq., Sonn & Erez, Ft. Lauderdale, Florida.

For Asset Management Securities Corp., hereinafter referred to as "Respondent": Leonard Bloom, Esq., Broad & Cassel, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 21, 2003.

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

Motion to Dismiss, Statement of Answer and Affirmative Defenses filed by Respondent on or about: April 4, 2003.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; and violation of the Florida Securities and Investor Protection Act. The causes of action relate to the purchase of unspecified aggressive growth mutual funds in Claimant's accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses

RELIEF REQUESTED

Claimant requested compensatory damages of \$345,000.00, interest, costs, attorneys' fees, and such other and further relief this Panel deemed just and proper.

Respondent requested attorneys' fees and costs pursuant to the inherent authority of the Panel and Section 57.105 of the Florida Statutes. Respondent further requested an award of attorneys' fees and costs pursuant to the indemnity agreement entered into between Claimant and Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On August 5, 2003, the Panel issued an Order denying Respondent's motion to dismiss.

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

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:

Respondent is liable on the claims pursuant to Chapter 517 and the common law claims of breach of fiduciary duty, negligence and negligent supervision and shall pay to Claimant compensatory damages of \$310,000.00 plus interest at the Florida legal rate from February 12, 2004 until the date of payment of the Award.

Respondent is liable and shall pay to Claimant costs of \$5,000.00.

Claimant's request for attorneys' fees is granted. Respondent is liable for Claimant's attorneys' fees, with the amount to be determined by a court of competent jurisdiction, pursuant to Chapter 517 of the Florida Statutes.

Respondent is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Respondent's request for attorneys' fees, are 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	= \$ 300.00
--------------------------	-------------

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(s) at the time of the event(s) giving rise to the dispute. Accordingly, Asset Management Securities Corp. is a member firm and 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

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred in this matter.

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 a single arbitrator @ \$450.00 per session	= \$ 450.00
Pre-hearing conference: January 27, 2004 1 session	

One (1) Pre-hearing session with the Panel @ \$1,125.00 per session	= \$ 1,125.00
Pre-hearing conference: June 12, 2003 1 session	

Nine (9) Hearing sessions @ \$1,125.00 per session	= \$10,125.00
Hearing Dates: February 9, 2004 3 sessions	
February 10, 2004 2 sessions	
February 11, 2004 2 sessions	
February 12, 2004 2 sessions	

Total Forum Fees	= \$11,700.00
------------------	---------------

The Panel waived the forum fees of \$1,125.00 for the hearing session held on February 9, 2004.
The Panel assessed the remaining forum fees of \$10,575.00 to Respondent.

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 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

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$10,575.00
Total Fees	= \$15,775.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$10,575.00

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

ARBITRATION PANEL

<i>John A. Brekka, Jr., Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Oscar Schneider, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Morton D. Siegel</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson

02/17/04
Signature Date

/s/
Oscar Schneider, Esq.
Public Arbitrator

02/18/04
Signature Date

NASD Dispute Resolution
Arbitration No. 03-00460
Award Page 5 of 5

/s/
Morton D. Siegel
Non-Public Arbitrator

02/17/04
Signature Date

02/18/04
Date of Service (For NASD Dispute Resolution office use only)

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 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

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$10,575.00
Total Fees	= \$15,775.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$10,575.00

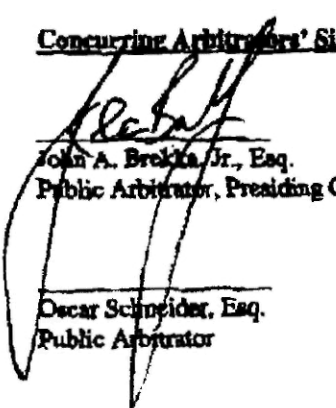
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

John A. Brekka, Jr., Esq.
Oscar Schneider, Esq.
Marion D. Siegel

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson

2/17/04
Signature Date

Oscar Schneider, Esq.
Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 03-00460
Award Page 4 of 5

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 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

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$10,575.00
Total Fees	= \$15,775.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$10,575.00

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

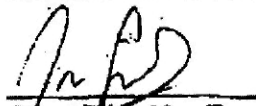
ARBITRATION PANEL

John A. Brekka, Jr., Esq.
Oscar Schneider, Esq.
Morton D. Siegel

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson


Oscar Schneider, Esq.
Public Arbitrator

Signature Date

2/18/04
Signature Date

NASD Dispute Resolution
Arbitration No. 03-00460
Award Page 5 of 5


Morton D. Siegel
Non-Public Arbitrator

2/17/04
Signature Date

Date of Service (For NASD Dispute Resolution office use only)