

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 03-00787

John and Donna O'Leary

Name of the Respondents

Hearing Site: Richmond, Virginia

Scott & Stringfellow, Inc.

William F. Calliott

Samuel L. Collins

Furman G. Wall, Jr.

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

REPRESENTATION OF PARTIES

Claimants, John and Donna O'Leary, hereinafter collectively referred to as "Claimants", were represented by Mark J. Krudys, Esq., Mark J. Krudys, PLC, Richmond, Virginia.

Respondents, Scott & Stringfellow, Inc. ("S&S"), William F. Calliott ("Calliott"), Samuel L. Collins ("Collins"), and Furman G. Wall, Jr. ("Wall"), hereinafter collectively referred to as "Respondents", were represented by Mark C. Shuford, Esq. and Thomas McGonigle, Esq., LeClair Ryan, P.C., Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on January 31, 2003.

Claimants signed the Uniform Submission Agreement on January 28, 2003.

Statement of Answer filed by Respondents on April 2, 2003.

Respondent Wall signed the Uniform Submission Agreement on April 1, 2003.

Respondent Calliott signed the Uniform Submission Agreement on April 1, 2003.

Respondent Collins signed the Uniform Submission Agreement on April 1, 2003.

A representative of Respondent S&S executed the Uniform Submission Agreement on April 2, 2003.

Respondents' Motion to Dismiss was filed on April 15, 2004.

Claimants' Response to the Respondents' Motion to Dismiss was filed on May 3, 2004.

Respondents' Reply Memorandum in Further Support of Motion to Dismiss was filed on May 26, 2004.

Claimant's Motion to Reinstate Respondent Wall as a party was filed on September 10, 2004.

Respondents' Response to the Motion to Reinstate was filed on September 13, 2004.

Claimant's Reply to Respondents' Response was filed on September 13, 2004.

CASE SUMMARY

Claimants asserted the following causes of action, among others: fraud, negligence, breach of fiduciary duty, breach of contract, churning, unauthorized transactions, misrepresentation, violations of Virginia and federal securities statutes, violation of NASD rules and regulations, *respondeat superior*, and unsuitability. The causes of action relate to the purchase and sale of various small-capital stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state facts sufficient to constitute a cause of action; ratification; statute of limitations; Claimants' failed to exercise due care; waiver and estoppel; contributory negligence; and assumption of risk.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$400,000.00
Punitive Damages	\$1,200,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested the Panel dismiss this claim in its entirety and award Respondents their costs, fees, and expenses incurred in defense of this action, and that this matter be expunged from the Respondents' Central Registration Depository records.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated July 22, 2004, Claimants dismissed Respondent Wall.

By Order dated September 16, 2004, the Panel granted Claimants' Motion to Reinstate Respondent Wall.

At the hearing on the merits, Respondents renewed their Motion to Dismiss. The Motion to Dismiss was denied by the Panel.

The parties have 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:

1. All claims against Respondents are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent S&S is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 2-5, 2004 adjournment by Respondent S&S	= \$ 1,200.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: July 8, 2004 1 session	

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
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Pre-hearing conferences:	November 24, 2003	1 session	
	August 2, 2004	1 session	
Eight (8) Hearing sessions @ \$1,200.00			= \$ 9,600.00
Hearing Dates:	September 27, 2004	2 sessions	
	September 28, 2004	2 sessions	
	September 29, 2004	2 sessions	
	September 30, 2004	2 sessions	
<hr/> Total Forum Fees			= \$12,450.00

1. The Panel has assessed \$6,225.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$6,225.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 6,225.00
Total Fees	= \$ 6,725.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 5,025.00
2. Respondent is assessed and shall pay the following fees:

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 9,750.00
Less payments	= \$ 9,750.00
Balance Due NASD Dispute Resolution	= \$ 0.00
4. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 6,225.00
Total Fees	= \$ 6,225.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 6,225.00

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

ARBITRATION PANEL

Edward A. Dragon, Esq.	-	Public Arbitrator, Presiding Chairperson
Stuart H. Dunn, Esq.	-	Public Arbitrator, Panelist
William M. Meredith	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Edward A. Dragon

Edward A. Dragon, Esq.
Public Arbitrator, Presiding Chairperson

October 12, 2004

Signature Date

Stuart H. Dunn, Esq.
Public Arbitrator, Panelist

Signature Date

William M. Meredith
Non-Public Arbitrator, Panelist

Signature Date

October 12, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Edward A. Dragon, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stuart H. Dunn
Stuart H. Dunn, Esq.
Public Arbitrator, Panelist

10/12/04
Signature Date

William M. Meredith
Non-Public Arbitrator, Panelist

Signature Date

October 12, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Edward A. Dragon, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stuart H. Dunn, Esq.
Public Arbitrator, Panelist

Signature Date

William M. Meredith
William M. Meredith
Non-Public Arbitrator, Panelist

OCT 11, 2004
Signature Date

October 12, 2004
Date of Service (For NASD Dispute Resolution office use only)