

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Susan M. Barrington Trust, U/A Dated 8/21/95,
by and through Michael T. McDowell, as Co-Trustee
and Kathleen Smith, as Co-Trustee, Claimants

Case No. 03-00840

vs.

Hearing Site: St. Louis, Missouri

Stifel, Nicolaus & Company, Incorporated and
Girard Augustus Munsch, Jr., Respondents.

NATURE OF THE DISPUTE

Customer vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimant, The Susan M. Barrington Trust, U/A Dated 8/21/95, Michael T. McDowell ("McDowell") and Kathleen Smith ("Smith") as Trustees, hereinafter collectively referred to as "Claimants": Albert S. Watkins, Esq. of the law firm Kodner, Watkins, Muchnick & Dunne, L.C. located in St. Louis, Missouri.

Respondents, Stifel, Nicolaus & Co., Inc. ("Stifel") and Girard A. Munsch, Jr. ("Munsch"), hereinafter collectively referred to as "Respondents": Jeffrey S. Jamieson, Esq. and Carrie J. Bechtold, Esq. of the law firm Blackwell Sanders Peper Martin, LLP located in St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: January 31, 2003

Claimant McDowell signed the Uniform Submission Agreement: January 31, 2003

Claimant Smith signed the Uniform Submission Agreement: January 28, 2003

Statement of Answer filed by Respondents Stifel and Munsch on or about: April 24, 2003

Respondent Stifel signed the Uniform Submission Agreement: February 14, 2003

Respondent Munsch signed the Uniform Submission Agreement: April 14, 2003

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, churning, misrepresentations, omission of facts, suitability and failure to supervise. Claimants alleged, *inter alia*, that the Trust's account was mishandled. The causes of action relate to shares in various stocks, including: Dynex Capital, Inc. ("Dynex"); Dynex Class B Preferred stock ("DXCPO"); MFS Massachusetts Investors Trust A ("MITTX"); Dynex Class C Preferred ("DXCPN"); shares in Limited Partnerships ("LPs"); Suburban Propane Partners, L.P. ("SPH"); and Kinder Morgan Energy Partners, L.P. ("KMP"); Orthalogic Corp.; Diamond Tech, Inc.; Williams Communications Group; and tech stocks such as International Game Technology, Yahoo!, Tyco and Worldcom.

Unless specifically admitted in their Answer, Respondents Stifel and Munsch denied the allegations made in the Statement of Claim and asserted the following defenses: statute of limitation, ratification, estoppel, waiver, comparative negligence, contributory negligence, assumption of risk, lack of causation and failure to mitigate damages.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$500,000.00, punitive damages in the amount of \$500,000.00, and costs, attorneys' fees and other relief.

Respondents requested dismissal of the Statement of Claim in its entirety, an award of their defense costs and other relief.

OTHER ISSUES CONSIDERED AND DECIDED

On June 17, 2004 Claimants dismissed all claims against Respondent Girard A. Munsch, Jr. Claimants and Respondent Stifel have reached a settlement of this matter whereby they have agreed upon this Stipulated Award as part of that settlement, which includes expungement of the CRD record of Munsch.

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 parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

1. The Statement of Claim and all claims asserted therein are hereby dismissed with prejudice as against Respondent Stifel, Nicolaus & Co., Inc.
2. The Panel recommends the expungement of all reference to this arbitration from the registration records maintained by the NASD Central Registration Depository ("CRD") concerning Girard Augustus Munsch, Jr., with the understanding that pursuant to NASD Notice to Members 99-90, said Respondent must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Any accrued and unpaid pre-hearing fees and costs due and owing to the NASD from Claimants McDowell and Smith and Respondent Stifel shall be paid solely by Stifel, Nicolaus & Co., Inc.
4. The parties shall each pay their own costs and attorneys' fees.

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 | = \$ 375.00 |
|--------------------------|-------------|

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 at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$2,250.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$4,000.00 |

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. Fees associated with these proceedings are:

| | |
|--|--------------|
| One (1) Pre-hearing session with Panel x \$1,200.00 | = \$1,200.00 |
| Pre-hearing conference: September 22, 2003 1 session | |
| Total Forum Fees | = \$1,200.00 |

The parties have agreed to pay forum fees as follows: Respondent Stifel, Nicolaus & Co., Inc. shall pay the total amount of \$1,200.00.

FEE SUMMARY

1. Claimants McDowell and Smith, as Trustees for the Susan Barrington Trust, are hereby are jointly and severally liable for:

| | |
|---|--------------|
| Initial Filing Fee | = \$ 375.00 |
| Less payments | = \$1,575.00 |
| Refund Due from NASD Dispute Resolution | = \$1,200.00 |

2. Respondent Stifel, Nicolaus & Co., Inc. is hereby is solely liable for:

| | |
|-------------------------------------|--------------|
| Member Fees | = \$7,000.00 |
| Forum Fees | = \$1,200.00 |
| Total Fees | = \$8,200.00 |
| Less payments | = \$8,000.00 |
| Balance Due NASD Dispute Resolution | = \$ 200.00 |

All balances are due to NASD Dispute Resolution.

Parties' Signatures

Dated: _____

Albert S. Watkins, Esq.
Attorney for Claimants, Michael T. McDowell and
Kathleen Smith, Co-Trustees
of the Susan M. Barrington Trust

Dated: _____

Jeffrey Jamieson, Esq.
Attorneys for Respondents Stifel, Nicolaus & Co., Inc.
and Girard A. Munsch, Jr.

ARBITRATION PANEL

| | | |
|-----------------------|---|--|
| R. Phillip Reed, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Richard L. Puhl | - | Public Arbitrator |
| Bryan A. McDonald | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

R. Phillip Reed, Esq.
Public Arbitrator, Presiding Chair

8/25/04
Signature Date

Richard L. Puhl
Public Arbitrator

8/20/04
Signature Date

Bryan A. McDonald
Non-Public Arbitrator

8/20/04
Signature Date

8/26/04
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration 03-00840
Award Page 5 of 5

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 Award Page 5 of 5

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