

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimants

Fred Freese  
Alicia Freese  
Fred Freese, KEOGH

Case Number: 03-01652

Name of the Respondents

Linsco/Private Ledger Corp.  
Mark J. Angelo Financial Services  
Mark J. Angelo

Hearing Site: Philadelphia, PA

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

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**REPRESENTATION OF PARTIES**

Claimants, Fred Freese, Alicia Freese and Fred Freese, KEOGH, hereinafter collectively referred to as "Claimants", were represented by Anthony J. Hom, Esq., Attorney at Law, New York, New York.

Respondents, Linsco/Private Ledger Corp. ("Linsco"), Mark J. Angelo Financial Services ("MAFS") and Mark J. Angelo ("Angelo"), hereinafter collectively referred to as "Respondents", were represented by David J. Freniere, Esq., Linsco/Private Ledger Corp., Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on March 7, 2003.

Claimants signed the Uniform Submission Agreement on February 10, 2003.

Statement of Answer filed by Respondents on May 15, 2003.

A representative of Respondent Linsco signed the Uniform Submission Agreement on March 27, 2003.

Respondents MAFS and Angelo did not file Uniform Submission Agreements with NASD Dispute Resolution.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: unsuitability, breach of contract, negligence, failure to execute, violations of state law, and failure to supervise. The causes of action relate to the purchase and sale of Janus mutual funds.

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 a claim upon which relief may be granted; Respondents did not breach any contract with Claimant; Respondents at all times acted in good faith and at no time acted intentionally, negligently, recklessly, or fraudulently with respect to any matter alleged in the Claim; Respondent Linsco did not fail to supervise Respondents MAFS or Angelo; Respondents did not violate NASD Conduct rules or federal or state law; Respondents did not engage in any unfair or deceptive acts or practices; Claimant's losses, if any, were caused by prevailing economic and market conditions and Claimant's own conduct, not by the actions of Respondents; waiver; and, estoppel.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 350,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

In their Statement of Answer, Respondents requested that Claimants' claims be dismissed in their entirety; that Respondents be awarded costs and attorneys' fees; and, that the Arbitration Panel (the "Panel") order the expungement of all reference to this matter from Respondent Angelo's Central Registration Depository ("CRD") record.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents Angelo Financial and Angelo did not file with NASD Dispute Resolution a properly executed submission to arbitration, but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On August 8, 2003, Claimant Alicia Freese withdrew herself as a Claimant and withdrew her claims against Respondents with prejudice.

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

### **AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That the listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. That Claimants have dismissed all claims with prejudice against Respondents;
3. That the Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Angelo's registration records maintained by the CRD with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Angelo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. That each party shall bear its own costs and expenses, including attorneys' fees, except as Fees are specifically addressed below; and,
5. That 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 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. Accordingly, Respondent Linsco is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **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 Panel @ \$ 1,125.00 = \$ 1,125.00  
Pre-hearing conference: December 11, 2003 1 session  
Total Forum Fees = \$ 1,125.00

1. The Panel has assessed \$ 281.25 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$ 281.25 of the forum fees to Respondent Linsco.
3. The Panel has assessed \$ 281.25 of the forum fees to Respondent MAFS.
4. The Panel has assessed \$ 281.25 of the forum fees to Respondent Angelo.

**Fee Summary**

1. Claimants are assessed and shall pay:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 281.25
Total Fees	= \$ 581.25
Less payments	= \$ 1,425.00
Refund owed Claimants	= \$ 843.75
2. Respondent Linsco is assessed and shall pay:	
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 281.25
Total Fees	= \$ 5,481.25
Less payments	= \$ 7,950.00
Refund owed Respondent Linsco	= \$ 2,468.75
3. Respondent MAFS is assessed and shall pay:	
Forum Fees	= \$ 281.25
Total Fees	= \$ 281.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 281.25
4. Respondent Angelo is assessed and shall pay:	
Forum Fees	= \$ 281.25
Total Fees	= \$ 281.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 281.25

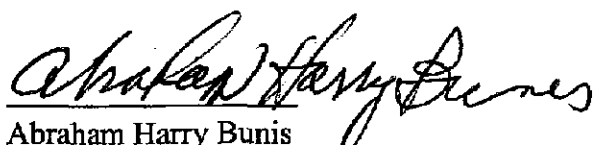
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Abraham Harry Bunis	-	Public Arbitrator, Panelist
Gladys Gershenfeld	-	Public Arbitrator, Panelist
Martin Kobak	-	Non-Public Arbitrator, Panelist

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**Concurring Arbitrators' Signatures**

  
Abraham Harry Bunis  
Public Arbitrator, Panelist


  
Signature Date

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Gladys Gershenfeld  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Martin Kobak  
Non-Public Arbitrator, Panelist

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Signature Date

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

**Concurring Arbitrators' Signatures**

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Abraham Harry Bunis  
Public Arbitrator, Panelist

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Signature Date

Gladys Gershenfeld  
Gladys Gershenfeld  
Public Arbitrator, Panelist

April 2, 2004  
Signature Date

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Martin Kotak  
Non-Public Arbitrator, Panelist

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Signature Date

April 30, 2004  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-01652

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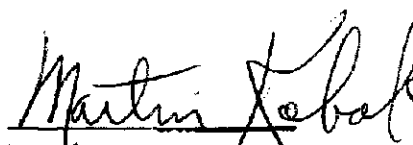
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Abraham Harry Bunis  
Public Arbitrator, Panelist

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Signature Date

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Gladys Gershenfeld  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Martin Kobak  
Non-Public Arbitrator, Panelist

4/2/04  
\_\_\_\_\_  
Signature Date

April 30, 2004  
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Date of Service (For NASD Dispute Resolution office use only)