

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

The Estate of Randi Everett and Samuel Everett (Claimants) v. National Planning Corporation  
and Marc Standig (Respondents)

Case Number: 03-01978

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

The Estate of Randi Everett ("The Estate") and Samuel Everett ("S. Everett") hereinafter collectively referred to as "Claimants": Frederick W. Rosenberg, Esq., Law Offices of Frederick W. Rosenberg, Roseland, NJ.

National Planning Corporation ("NPC") and Marc Standig ("Standig") hereinafter collectively referred to as "Respondents": Matthew Tracy, Esq., Winget, Spadafora & Schwartzberg, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 12, 2003.

Claimants signed the Uniform Submission Agreement: April 23, 2003.

Joint Statement of Answer filed by Respondents on or about: July 11, 2003

Respondent Standig signed the Uniform Submission Agreement: August 4, 2003.

Respondent NPC signed the Uniform Submission Agreement: August 22, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: (1) breach of fiduciary duty; (2) material misrepresentation and fraud; (3) failure to supervise; (4) unsuitability; (5) negligence; (6) breach of contract; (7) breach of warranty; (8) breach of unidentified New Jersey Common Law and Statutes; and (9) violations of §10b(5) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. Claimants' claim involved shares of common stocks and mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: (1) the Respondents did not guarantee the Claimants' return on any investments; (2) the Respondents did not guarantee the Claimants' return on any investments; (3) the Claimants contributed to and/or assumed the risk of her alleged losses, (4) Any losses sustained by the Claimants resulted solely from the

vagaries and volatilities of the securities markets, and not from any purported wrongdoing by the Respondents; (5) the Respondents fully complied with all applicable rules and regulations regarding the supervision; (6) the Claimants' investment portfolio must be considered in its entirety, and not just with respect to selected investments; (7) the Claimants approved, authorized and ratified the acts complained of and, accordingly, are precluded from asserting claims based on those decisions as a basis for recovery; (8) the Claimants' claims are barred by the doctrines of estoppel, waiver, ratification and laches; (9) the Claimants failed to mitigate their alleged damages; (10) all risks concerning Claimants' investments through the Respondents were properly disclosed to Claimants; (11) the Claimants cannot assert claims based upon alleged violations of the Rules of the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc. or any other self-regulatory organization because there is no private right of action for such alleged violations as a matter of law; and (12) the Claimants' claims are time-barred by virtue of the expiration of the applicable Federal and State statutes of limitations.

#### **RELIEF REQUESTED**

Claimants requested compensatory damages of approximately \$288,000.00; \$500,000.00 in punitive damages; attorneys' fees; and costs in the amounts of \$1,700.00, \$7,500.00, and \$1,500.00.

Respondents requested dismissal of the Statement of Claim in its entirety and Respondents' attorneys' fees and costs of defending this matter; imposing all forum fees and surcharges entirely upon the Claimants; and an order expunging this claim from the regulatory records of the Respondents.

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

Respondent NPC did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about September 2, 2004, the parties notified NASD Dispute Resolution that they settled this matter.

The Claimants, prior the hearing, withdrew their claims as against Respondent Marc Standig with prejudice. Prior to the hearing, the Claimants and National Planning Corporation entered into a Stipulated Award as detailed below. This Stipulated Award is being submitted to the Panel for its consideration.

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. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Marc Standig'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 Marc Standig must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
2. 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	= \$ 375.00
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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, National Planning Corporation is a party.

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

September 13-14, 20-21, 2004, adjournment requested by Respondents	= 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 a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: August 3, 2004 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$2,400.00

Pre-hearing conferences: December 18, 2003 1 session

January 30, 2004 1 session

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Total Forum Fees = \$2,850.00

1. The Panel has assessed 50% of the forum fees for the pre-hearing conference held on August 3, 2004, or \$225.00, and 50% of the forum fees for the pre-hearing conference held on January 30, 2004, or \$600.00, for a total of \$825.00 in forum fees, jointly and severally against Claimants.
2. The Panel has assessed 100% of the forum fees for the pre-hearing conference held on December 18, 2003, or \$1,200.00, 50% of the forum fees for the pre-hearing conference held on August 3, 2004, or \$225.00, and 50% of the forum fees for the pre-hearing conference held on January 30, 2004, or \$600.00, for a total of \$2,025.00 in forum fees, jointly and severally against Respondents.

#### Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 825.00
Total Fees	= \$1,200.00
<u>Less payments</u>	= \$1,575.00
Refund Due Claimants	= \$ 375.00

2. Respondent NPC is solely liable for:

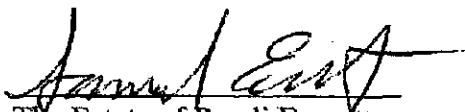
<u>Member Fees</u>	= \$7,000.00
Total Fees	= \$7,000.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,025.00
Total Fees	= \$2,025.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,025.00

All balances are due and payable to NASD Dispute Resolution

**Parties' Signatures**



The Estate of Randi Everett  
Samuel Everett as Administrator  
Claimant

1-18-05  
Signature Date



Samuel Everett  
Claimant

1-18-05  
Signature Date

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National Planning Corp.  
Respondent

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Signature Date

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Marc Standig  
Respondent

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Signature Date

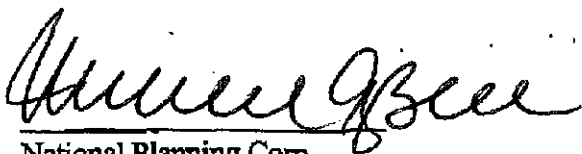
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The Estate of Randi Everett  
Samuel Everett as Administrator  
Claimant

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Signature Date

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Samuel Everett  
Claimant

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Signature Date

  
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Respondent

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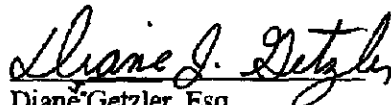
  
\_\_\_\_\_  
Marc Standig  
Respondent

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

ARBITRATION PANEL

Diane Getzler, Esq.	-	Public Arbitrator, Presiding Chair
John F. Heimerdinger	-	Public Arbitrator
Larry A. Kimmel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Diane Getzler, Esq.  
Public Arbitrator, Presiding Chair

May 3, 2005  
Signature Date

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John F. Heimerdinger  
Public Arbitrator

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

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Larry A. Kimmel  
Non-Public Arbitrator

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

May 12, 2005  
Date of Service (For NASD office use only)



**ARBITRATION PANEL**

Diane Getzler, Esq.	-	Public Arbitrator, Presiding Chair
John F. Heimerdinger	-	Public Arbitrator
Larry A. Kimmel	-	Non-Public Arbitrator

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Diane Getzler, Esq.  
Public Arbitrator, Presiding Chair



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John F. Heimerdinger  
Public Arbitrator

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Signature Date

5/5/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Larry A. Kimmel  
Non-Public Arbitrator

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Signature Date

May 12, 2005  
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Diane Getzler, Esq.  
Public Arbitrator, Presiding Chair

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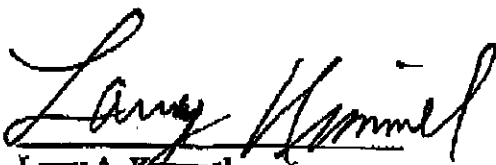
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John F. Heimerdinger  
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