

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Barry Brown, Claimant v. Sterling Financial Investment Group, Inc., Alan Marcum, Alexis Korybut, and Robert Levitt, Respondents

Case Number: 03-03204

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

In Propria Persona

For Respondents:

Richard B. Simring, Esq.
Stroock & Stroock & Lavan LLP
Miami, Florida

CASE INFORMATION

Statement of Claim filed: April 29, 2003

Claimant's Uniform Submission Agreement signed: April 27, 2003 and June 25, 2003

Statement of Answer and Motion to Dismiss filed by Respondents Sterling Financial Investment Group, Inc. and Alan Marcum: August 8, 2003

Motion to Dismiss filed by Respondents Alexis Korybut and Robert Levitt: August 8, 2003

Respondent Sterling Financial Investment Group, Inc.'s Uniform Submission Agreement signed: July 23, 2003

Respondent Alan Marcum's Uniform Submission Agreement signed: July 25, 2003

Respondent Alexis Korybut's Uniform Submission Agreement signed: undated

Respondent Robert Levitt's Uniform Submission Agreement signed: July 23, 2003

CASE SUMMARY

Claimant alleged errors in charges, negligence, failure to supervise, failure to execute, limit versus market order, breach of fiduciary duty, misrepresentations, and unauthorized trading, involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$50,000.00 in compensatory damages, \$25,000.00 in punitive damages, and costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, expungement of regulatory records, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On August 22, 2003, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On August 8, 2003, Respondents Sterling Financial Investment Group, Inc. and Alan Marcum filed a Motion to Dismiss along with their Answer. On August 8, 2003, Respondents Alexis Korybut and Robert Levitt also filed a Motion to Dismiss. On November 12, 2003, Claimant filed his Response to the Motions to Dismiss. At the initial pre-hearing conference on December 5, 2003, the Arbitration Panel offered all parties the opportunity to present oral argument on the Motions to Dismiss, but all parties stated that they would rely on the papers submitted. On December 12, 2003, the Arbitration Panel held a telephonic deliberation regarding the Motions to Dismiss and subsequently granted both motions.

AWARD

After considering the pleadings, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Sterling Financial Investment Group, Inc. and Alan Marcum's Motion to Dismiss is granted.
- 2) Respondents Alexis Korybut and Robert Levitt's Motion to Dismiss is granted.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Sterling Financial Investment Group, Inc.'s registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Sterling Financial Investment Group, Inc. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Alan Marcum's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Alan Marcum must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 5) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Alexis Korybut's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Alexis Korybut must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 6) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert Levitt's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Robert Levitt must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 7) The parties shall bear their respective costs, including attorney's fees.
- 8) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Sterling Financial Investment Group, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: December 5, 2003 1 session	

Total Forum Fees	= \$ 750.00
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1. The Panel assessed \$ 375.00 of the forum fees to Claimant.
2. The Panel assessed \$ 375.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 600.00
Less payments	= \$(975.00)
Refund Due Claimant	= \$(375.00)

2. Respondent Sterling Financial Investment Group, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,550.00
Less payments	= \$(1,850.00)
Balance Due NASD Dispute Resolution	= \$ 1,700.00

3. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 375.00
Less payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

Daniel J. McCarthy, Jr.	-	Public Arbitrator, Presiding Chair
Anthony D. DeToro, Esq.	-	Public Arbitrator
Anatoly Zuban	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Daniel J. McCarthy, Jr.
Chair, Public Arbitrator

Signature Date

Anthony D. DeToro, Esq.
Public Arbitrator

Signature Date

Anatoly Zuban
Non-Public Arbitrator

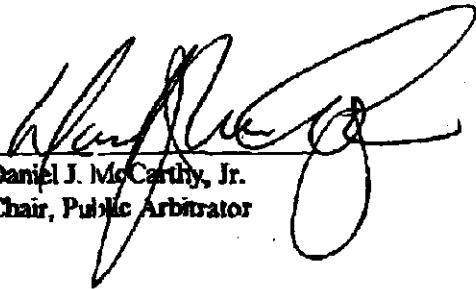
Signature Date

December 18, 2003
Date of Service

ARBITRATION PANEL

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Anthony D. DeToro, Esq.	-	Public Arbitrator
Anatoly Zuban	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Daniel J. McCarthy, Jr.
Chair, Public Arbitrator

12-17-03
Signature Date

Anthony D. DeToro, Esq.
Public Arbitrator

Signature Date

Anatoly Zuban
Non-Public Arbitrator

Signature Date

12/18/03
Date of Service

ARBITRATION PANEL

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Anthony D. DeToro, Esq.	-	Public Arbitrator
Anatoly Zuban	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

Daniel J. McCarthy, Jr.
Chair, Public Arbitrator

Signature Date

Anthony D. DeToro, Esq.
Public Arbitrator

12-23-03
Signature Date

Anatoly Zuban
Non-Public Arbitrator

Signature Date

Date of Service

NASD Dispute Resolution
Arbitration No. 03-03204
Award Page 6 of 6

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12-17-03
Signature Date

12/18/03
Date of Service