

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of Claimants

Vernon R. Parsell Trust and Mary P. Parsell Trust

Case Number: 03-04225

Name of Respondents

Legg Mason Wood Walker, Incorporated and Mike Halpern

Hearing Site: Charlotte, NC

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

**REPRESENTATION OF PARTIES**

Claimants, Vernon R. Parsell Trust and Mary P. Parsell Trust, hereinafter referred to as "Claimants," were represented by W. Mullins McLeod, Jr., Esq. of Pierce, Hems, Sloan & McLeod, LLC, Charleston, South Carolina.

Respondents, Legg Mason Wood Walker, Incorporated, hereinafter referred to as "Legg Mason," and Michael F. Halpern hereinafter referred to as "Respondent Halpern", were represented by Jason W. Gaarder, Esq., Associate General Counsel of Legg Mason, Baltimore, Maryland.

**CASE INFORMATION**

Statement of Claim filed on or about: June 5, 2003

Claimants signed the Uniform Submission Agreement: June 5, 2003

Statement of Answer filed by Respondents on or about: August 28, 2003

A representative of Respondent Legg Mason signed the Uniform Submission Agreement: August 28, 2003

Respondent Halpern signed the Uniform Submission Agreement: September 11, 2003

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: negligence, breach of fiduciary duty, fraud, negligent misrepresentation, violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 Promulgated thereunder, unsuitability, and breach of implied covenant of good faith and fair dealings. Claimants alleged that Respondent Legg Mason sold them AMRESKO, Inc. and MACSAVER Financial Services, Inc. bond issues, which were not appropriate investments.

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, statute of limitations, any damages the result of Claimants' conduct, Claimants authorized all transactions, any damages were the result of market conditions, failure to mitigate, ratification, laches, estoppel, and reasonable supervisory systems were in place. In the Answer, Respondent Halpern requested that he be dismissed from the case because the Statement of Claim contained no affirmative allegations against him, Respondent Halpern was the branch manager for the branch office involved but not the broker of record for the accounts.

### **RELIEF REQUESTED**

Claimants did not specify the dollar amount of their damages, but requested actual damages, interest and incidental damages in an amount to be determined by the Panel, treble damages, punitive damages, attorneys fees' and costs incurred, and such other and further relief deemed proper by the Panel.

In the Statement of Answer, Respondent Halpern requested that he be dismissed prior to the hearing on this matter.

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

On or about April 12, 2004 the parties agreed to a settlement and requested that the Panel enter a Stipulated Award in this matter.

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**

After considering the pleadings, the parties' agreement, and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Legg Mason and the Claimants have agreed to settle this matter. Claimants withdraw all claims against both Respondents, and therefore this action is dismissed as to both Respondents;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Halpern'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 Halpern's must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 250.00
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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(s) at the time of the events giving rise to the dispute. In this matter, the member firm Legg Mason is a party.

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

#### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Forum fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: March 16, 2004 1 session	
One (1) Pre-hearing session with Panel @ \$1,000.00	= \$1,000.00
Pre-hearing conference: January 15, 2004 1 session	
<u>Total Forum Fees</u>	<u>= \$1,450.00</u>

1. The Panel has assessed \$ 725.00 of the forum fees against Claimants.
2. The Panel has assessed \$ 725.00 of the forum fees jointly and severally against Respondents.

**FEE SUMMARY**

1. Claimants are assessed and shall pay:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 725.00
Total Fees	= \$ 975.00
<u>Less payments</u>	= \$1,250.00
Refund owed to Claimants	= \$ 275.00

2. Respondent Legg Mason is assessed and shall pay:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
<u>Less payments</u>	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$4,450.00

3. Respondents are jointly and severally assessed and shall pay:

Forum Fees	= \$ 725.00
Total Fees	= \$ 725.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 725.00

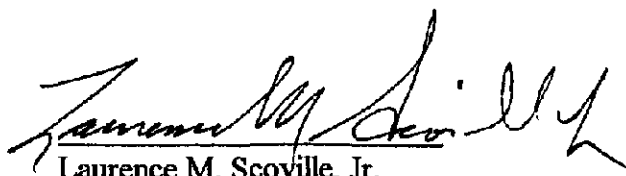
All balances are due and payable to NASD Dispute Resolution

**ARBITRATION PANEL**

Laurence M. Scoville, Jr.	-	Public Arbitrator, Presiding Chairperson
Robert S. Zuckerman	-	Public Arbitrator, Panelist
W. Wells Van Pelt, Jr.	-	Non-Public Arbitrator, Panelist

**ARBITRATION PANEL**

**Concurring Arbitrators' Signatures**



Laurence M. Scoville, Jr.  
Public Arbitrator, Presiding Chairperson

Jan 14, 2005  
Signature Date

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Robert S. Zuckerman  
Public Arbitrator, Panelist

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

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W. Wells Van Pelt, Jr.  
Non-Public Arbitrator, Panelist

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

January 26, 2005  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 03-04225  
Stipulated Award Page 5 of 6

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Laurence M. Scoville, Jr.  
Public Arbitrator, Presiding Chairperson

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

Robert S. Zuckerman  
Robert S. Zuckerman  
Public Arbitrator, Panelist

1/14/05  
Signature Date

\_\_\_\_\_  
W. Wells Van Pelt, Jr.  
Non-Public Arbitrator, Panelist

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Signature Date

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Public Arbitrator, Presiding Chairperson

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Signature Date

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Robert S. Zuckerman  
Public Arbitrator, Panelist

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



\_\_\_\_\_  
W. Wells Van Pelt, Jr.  
Non-Public Arbitrator, Panelist

18 Jan 05  
Signature Date

January 26, 2005  
Date of Service (For NASD office use only)