

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Names of Claimants

Donald and Lila Alpin

and

Case Number: 03-04283  
Hearing Site: Detroit, Michigan

Names of Respondents

Sigma Financial Corporation, Michael J.  
Hoffman, Michael J. Brooks, and  
Jerome S. Rydell

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**NATURE OF CASE**

Customers v. Member and Associated Persons

**REPRESENTATION OF PARTIES**

Donald and Lila Alpin ("Claimants") were represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Anthony V. Trogan, PLLC, West Bloomfield, Michigan.

Sigma Financial Corporation ("Sigma"), Michael J. Hoffman ("Hoffman"), Michael J. Brooks ("Brooks"), and Jerome S. Rydell ("Rydell"), hereinafter referred to as "Respondents," were represented by David A. Baugh, Esq., and Ellen L. Flannigan, Esq., Mora Baugh Waitzman & Unger, Chicago, Illinois. Respondents were represented by Joseph H. Spiegel, Ann Arbor, Michigan, until on or about May 10, 2004.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 12, 2003. The Amended Statement of Claim was submitted on or about April 21, 2004. The Submission Agreement of Claimants Donald and Lila Alpin was signed on or about June 3, 2003.

The Statement of Answer was filed jointly by Respondents, Sigma, Rydell, and Brooks, on or about August 6, 2003. Respondents, Sigma, Rydell, Brooks and Hoffman, jointly submitted a Response to the Amended Statement of Claim on or about May 10, 2004. The Submission Agreement of Respondent, Sigma Financial Corporation was signed on or about August 5, 2003. The Submission Agreement was signed by Jerome S. Rydell on or about August 5, 2005.

Respondents, Sigma, Rydell and Brooks, submitted a Motion to Dismiss on or about August 5, 2004. Claimants submitted a Response to Respondents' Motion to Dismiss on or about September 10, 2003. Respondents, Sigma, Rydell and Brooks, submitted a Reply to Claimants' Response to their Motion on or about September 17, 2004

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, common law fraud, conspiracy, promissory estoppel, conversion, negligence, malpractice, breach of fiduciary duty, breach of Michigan securities laws and violation of Michigan's Consumer's Protection Law. These causes of action related to the purchase and sale of limited partnership interests established by the Baron.

Unless specifically admitted in their Answer, Respondents Sigma Financial Corporation, Jerome Rydell, Michael Brooks, Michael Hoffman denied all allegations of misconduct made in the Statement of Claim and asserted the following affirmative defenses: the Statement of Claim fails to state a claim for which relief can be granted, is barred by the doctrine of assumption of risk, estoppel, statute of frauds, laches, for want or failure of consideration, and for unclean hands; Respondents' conduct was not the proximate cause of any alleged injury; Claimants' losses, if any were not caused by Respondents, but instead were caused by others or market conditions not attributable to Respondents; and Claimants' claims are time barred, in whole or in part.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 73,500.00
Punitive Damages	\$ unspecified
Exemplary Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ 1,475.00

Respondents requested that the claims asserted be denied and dismissed in their entirety and that an award recommending an expungement of the claims asserted against Jerome S. Rydell, Michael J. Brooks, Michael J. Hoffman be entered by the Panel.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents, Michael J. Hoffman and Michael J. Brooks, did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the

"Code") and having answered the claim, appeared and testified at the pre-hearing conferences through counsel are bound by the determination of the arbitration panel on all issues submitted.

In its order entered on or about July 9, 2004, the panel denied Respondents' Motion to Dismiss without prejudice.

In accordance with Rule 10336 of the NASD Code of Arbitration Procedure (hereinafter the "Code"), the parties stipulated and agreed that this matter would be heard by three arbitrators, and that any award would be entered by the panel Chairperson.

Prior to a hearing on this matter, Claimants dismissed the claims asserted against Jerome Rydell, Michael Brooks, Michael Hoffman with prejudice. Thereafter, Claimants informed NASD Dispute Resolution that the remaining claims had been fully settled, resolved and compromised. In accordance with the agreement of the parties, the parties submitted a stipulation and notice of dismissal which requested that the undersigned arbitrator enter an order and/or award recommending an expungement of any and all references to all claims and Claimants from the permanent registration records of Jerome Rydell, Michael Brooks, Michael Hoffman maintained by NASD Central Registration Depository ("CRD").

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **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.) Claimants' claims, against Respondents Sigma Financial Corporation, Jerome S. Rydell, Michael J. Brooks, and Michael J. Hoffman, are dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondents' Michael J. Hoffman's, Michael J. Brooks', and Jerome S. Rydell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Michael J. Hoffman, Michael J. Brooks, and Jerome S. Rydell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and

- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **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 = \$ 225.00

#### **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 Sigma Financial Corporation.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

#### **Forum Fees and Assessments**

The Arbitration 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$750.00	= \$ 1,500.00
Pre-hearing conferences: April 19, 2004	1 session
June 24, 2004	1 session
<b>Total Forum Fees</b>	<b>= \$ 1,500.00</b>

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to Donald and Lila Alpin.

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to Sigma Financial Corporation, Michael J. Hoffman, Michael J. Brooks, and Jerome S. Rydell.

**FEE SUMMARY**

Claimants, Donald and Lila Alpin, are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 975.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Sigma Financial Corporation, is liable for:

Member Fees	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Sigma Financial Corporation, Michael J. Hoffman, Michael J. Brooks, and Jerome S. Rydell, are jointly and severally liable for:

Forum Fees	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

**ARBITRATOR**

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

/s/ Richard Joseph Rankin, Esq.  
Richard Joseph Rankin, Esq.  
Public Arbitrator, Presiding Chair

10/29/04  
Signature Date

11/02/04  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
 Arbitration No. 03-04289  
 Stipulated Award Page 5 of 5

### FEE SUMMARY

Claimants, Donald and Lila Alpin, are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Sigma Financial Corporation, is liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Sigma Financial Corporation, Michael J. Hoffman, Michael J. Brooks, and Jerome S. Rydell, are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

### ARBITRATOR

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair

Arbitrator's Signature:



Richard Joseph Rankin, Esq.  
 Public Arbitrator, Presiding Chair

10-29-04  
 Signature Date

Date of Service (For NASD office use only)