
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Renee C. Kaplan, individually and as
Trustee on behalf of the Renee C. Kaplan Trust

Case Number: 03-04716

Names of the Respondents

Sigma Planning Corporation a/k/a SPC
Sigma Financial Corporation
Norman J. Liebowitz

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Renee C. Kaplan, individually and as Trustee on behalf of the Renee C. Kaplan Trust, hereinafter referred to as "Claimant": Steven Kellough, Esq., Law Offices of Steven Kellough, Miami, Florida.

For Sigma Planning Corporation a/k/a SPC ("Planning"), Sigma Financial Corporation ("Financial") and Norman J. Liebowitz ("Liebowitz"), hereinafter collectively referred to as "Respondents": Katherine C. Lake, Esq., Fowler White Boggs Banker, P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 23, 2003.

Claimant signed the Uniform Submission Agreement: June 23, 2003.

Statement of Answer filed by Respondents on or about: September 2, 2003.

Respondent Financial signed the Uniform Submission Agreement: August 13, 2003.

Respondent Liebowitz signed the Uniform Submission Agreement: August 13, 2003.

Respondent Planning signed the Uniform Submission Agreement: September 19, 2003.

CASE SUMMARY

Claimant asserted the following causes of action against Respondents: breach of contract; unjust enrichment; negligent supervision; breach of fiduciary duty; misrepresentation; unsuitability; violation of Chapter 517; negligence; and respondeat superior. The causes of action relate to the purchase and sale of various common stocks and mutual funds in Claimant's account, including, but not limited to, the following: Ariba; Brocade; Corning; High Speed Net; Hyseq; Stein Roe Growth & Income Fund; Federated High Yield Trust Fund; Babson Buffalo Balanced Fund; Cohen & Steers Realty Shares Fund; and Lexington GNMA Income Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing contained in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in excess of \$200,000.00, interest, costs and attorneys' fees

Respondents requested that Claimant's claims be dismissed and they be awarded reasonable attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Planning is not an NASD member firm, but having filed an executed Uniform Submission Agreement, and having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about June 24, 2004, Claimant dismissed all of her claims against Respondent Liebowitz.

On or about July 14, 2004, Claimant filed with NASD Dispute Resolution a notice of voluntary dismissal, with prejudice, of all claims against all Respondents.

On or about July 20, 2004, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel, in which the parties requested that all references to this matter be expunged from Respondent Liebowitz's NASD Central Registration Depository ("CRD") record. The parties further agreed that should there be any disagreement as to the language of the Stipulated Award, such disagreement shall be heard and decided by the Chairperson.

The parties have agreed that the Stipulated Award in this matter be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

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

- 1) Given Claimant's dismissal of the claims against Respondent Liebowitz, the Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Liebowitz's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Liebowitz must obtain, at his sole expense, confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 2) The parties shall bear their own costs, expenses and attorneys' fees other than those expenses as specified above.

3) All other claims in this proceeding brought by any party are dismissed with prejudice.

FEEES

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

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 Financial is a member firm and a party:

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Total Member Fees = \$5,200.00

Adjournment Fees

No adjournments were requested in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conferences: January 26, 2004 1 session

Total Forum Fees = \$1,125.00

Pursuant to the agreement of the parties, the Panel has assessed forum fees as follows:

\$562.50 to Claimant; and

\$562.50 to Respondents, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Financial is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Financial, Planning and Liebowitz are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Richard S. Zaifert, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur L. Tepper, Esq.	-	Public Arbitrator
Gregory S. Tendrich, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Richard S. Zaifert, Esq.
Public Arbitrator, Presiding Chairperson

July 27, 2004
Signature Date

/s/
Arthur L. Tepper, Esq.
Public Arbitrator

July 27, 2004
Signature Date

/s/
Gregory S. Tendrich, Esq.
Non-Public Arbitrator

July 27, 2004
Signature Date

July 27, 2004
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 03-04716
Stipulated Award Page 4

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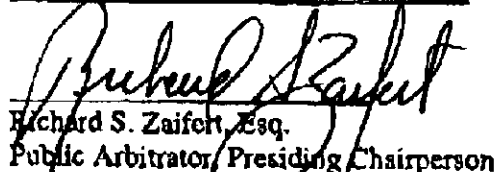
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Concurring Arbitrators' Signatures


Richard S. Zaifert, Esq.
Public Arbitrator, Presiding Chairperson

7/27/04
Signature Date



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ARTHUR L. TEPPER

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NASD REGULATIONS

NO. 524 P 2/2

NASD Dispute Resolution

Arbitration No. 03-04716

Stipulated Award Page 5

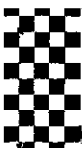
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Public Arbitrator

7/27/04
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Non-Public Arbitrator

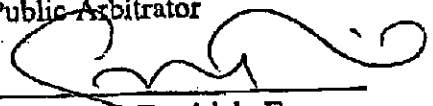
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SD Dispute Resolution
Arbitration No. 03-04716
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Arthur L. Tepper, Esq.
Public Arbitrator



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