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

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In the Matter of the Arbitration Between:

Name of the Claimant

Marjorie Paisley, individually and as the beneficiary  
of the Marjorie Paisley IRA

Case Number: 03-05020

Name of the Respondent

Sosnowy Investment Management Company, Inc.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Marjorie Paisley, individually and as the beneficiary of the Marjorie Paisley IRA, hereinafter referred to as "Claimant": Lonnie K. Martens, Esq., The Martens Law Firm, Tequesta, Florida.

For Sosnowy Investment Management Company, Inc. ("SIMCO"), hereinafter referred to as "Respondent": John K. Sosnowy, Sosnowy Investment Management Company, Inc., Seattle, Washington.

**CASE INFORMATION**

Statement of Claim filed on or about: July 9, 2003.

Claimant signed the Uniform Submission Agreement: July 8, 2003.

Statement of Answer filed by Respondent on or about: September 25, 2003.

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

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence and gross negligence; violation of Section 517 of the Florida Statutes; breach of fiduciary duty; and, negligent supervision. The causes of action relate to the purchase of unspecified mutual funds and limited partnerships in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages between \$500,000.00 and \$1,000,000.00; statutory interest from the time of purchase; and, an award of attorneys' fees and costs pursuant to Section 517 of the Florida Statutes.

Respondent requested a ruling in its favor.

**OTHER ISSUES CONSIDERED AND DECIDED**

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 and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable for negligence and gross negligence, violation of Florida Statutes Section 517, breach of fiduciary duty and negligent supervision. Respondent shall pay to Claimant compensatory damages in the amount of \$100,000.00.

Claimant's request for attorneys' fees is granted pursuant to Chapter 517 of the Florida Statutes, in an amount to be determined by a court of competent jurisdiction.

Any and all relief not specifically addressed herein, is denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (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. Accordingly, SIMCO is a member firm and 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**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

**Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred 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 in this matter.

**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 a the Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: April 1, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Date: December 7, 2004 1 session	
December 8, 2004 3 sessions	
Total Forum Fees	= \$6,000.00

The Panel assessed forum fees of \$3,000.00 to Claimant.

The Panel assessed forum fees of \$3,000.00 to Respondent.

**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 in this matter.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$3,000.00
Total Fees	= \$3,375.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$1,800.00

Respondent is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

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

**ARBITRATION PANEL**

John De Leon, Esq.	-	Public Arbitrator, Presiding Chairperson
Rosemarie Ann Jannuzzi, Esq.	-	Public Arbitrator
Donald P. Koepfel	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature(s)**

/s/  
John De Leon, Esq.  
Public Arbitrator, Presiding Chairperson

December 13, 2004  
Signature Date

/s/  
Rosemarie Ann Jannuzzi, Esq.  
Public Arbitrator

December 10, 2004  
Signature Date

/s/  
Donald P. Koepfel  
Non-Public Arbitrator

December 10, 2004  
Signature Date

December 13, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Respondent is solely liable for:


Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,000.00
Less payments	= \$ 7,000.00
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John De Leon, Esq.  
Public Arbitrator, Presiding Chairperson

12/13/04  
Signature Date

Rosemarie Ann Jannuzzi, Esq.  
Public Arbitrator

Signature Date

Donald P. Koepfel  
Non-Public Arbitrator

Signature Date

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Respondent is solely liable for:

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Forum Fees	= \$ 3,000.00
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Non-Public Arbitrator

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Respondent is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	<u>= \$ 3,000.00</u>
Total Fees	= \$10,000.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,000.00

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