
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Linda Samuel

Case Number: 03-05067

Names of the Respondents
Moors & Cabot, Inc.
Daniel Morales

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Linda Samuel, hereinafter referred as "Claimant": Randall W. Henley, Esq., Randall W. Henley, P.A., West Palm Beach, Florida.

For Moors and Cabot, Inc. ("MCI") and Daniel Morales ("Morales"), hereinafter collectively referred to as "Respondents": Sander A. Rikleen, Esq., Edwards & Angell, LLP, Boston, Massachusetts.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: July 17, 2003.

Statement of Answer filed by Respondents on or about: September 5, 2003.

Respondent Morales signed the Uniform Submission Agreement: September 1, 2003.

Respondent MCI signed the Uniform Submission Agreement: September 5, 2003.

CASE SUMMARY

Claimant asserted the causes of action of breach of fiduciary duty and negligence. The causes of action relate to the purchase and sale in Claimant's accounts of the following mutual funds: AIM Balanced Fund C; AIM Constellation Fund C; Fidelity Balanced Fund C; Fidelity Mid Cap Fund C; ML Corp. Bond Invest. Grade Fund; ML Global Allocation Fund B; AIM Mid Cap Equity A; ML Fundamental Growth B; ML Growth Fund B; AIM Large Cap Opport. Fund B; AIM Constellation Fund B; Evergreen Omega Fund B; and Van Kampen Emerging Growth B.

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

RELIEF REQUESTED

Claimant requested compensatory damages in an amount between \$30,000.00 and \$50,000.00, together with

interest and the costs of bringing this action.

Respondents requested that the Panel make a specific finding that there was no misconduct by Respondents, dismiss all claims and allegations against them, and require Claimant to bear all costs incurred by Respondents in defending this claim.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel specifically finds that there was no misconduct on the part of Respondents, and dismisses all claims and allegations against them.

The Panel recommends that all references to the above-captioned arbitration be expunged from Respondents MCI's and Morales' 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, Respondents MCI and Morales must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein are 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	= \$ 175.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent MCI is a member firm and a party.

Member Surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,625.00

Adjournment Fees

No adjournments were requested 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 assessed 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.

Injunctive relief fees were not assessed 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$600.00/session	= \$ 600.00
Pre-hearing conference: April 27, 2004 1 session	

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: October 13, 2004 1 session	

Two (2) Hearing sessions @ \$600.00/session	= \$1,200.00
Hearing Date: November 8, 2004 2 sessions	

Total Forum Fees	= \$2,250.00
------------------	--------------

The Panel has assessed forum fees of \$1,125.00 to Claimant.

The Panel has assessed forum fees of \$1,125.00 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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,300.00
Less Payments	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 525.00

Respondent MCI is solely liable for:

Member Fees	= \$2,625.00
Total Fees	= \$2,625.00
Less Payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

ARBITRATION PANEL

James A. Smith, IV	-	Public Arbitrator, Presiding Chairperson
David M. Auerbach	-	Public Arbitrator
S. William Gersten	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
James A. Smith, IV
Public Arbitrator, Presiding Chairperson

November 9, 2004
Signature Date

_____/s/_____
David M. Auerbach
Public Arbitrator

November 10, 2004
Signature Date

NASD Dispute Resolution

Arbitration No. 03-05067

Award Page 5

_____/s/_____
S. William Gersten

Non-Public Arbitrator

November 9, 2004

Signature Date

November 12, 2004

Date of Service (For NASD Dispute Resolution office use only)

NOV. 9. 2004 4:42PM

NASD REGULATIONS

NO. 288

P. 5

NASD Dispute Resolution

Arbitration No. 03-05067

Award Page 4**Fee Summary****Claimant is solely liable for:**

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$1,125.00
Total Fees	= \$1,300.00
<u>Less Payments</u>	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 525.00

Respondent MCI is solely liable for:

<u>Member Fees</u>	= \$2,625.00
Total Fees	= \$2,625.00
<u>Less Payments</u>	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,125.00
Total Fees	= \$1,125.00
<u>Less Payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

ARBITRATION PANEL

James A. Smith, IV

David M. Auerbach

S. William Gersten

-

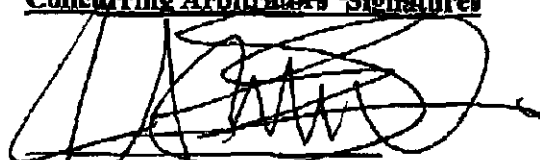
-

-

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

James A. Smith, IV

Public Arbitrator, Presiding Chairperson

11/9/2004

Signature Date

David M. Auerbach

Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 03-05067
Award Page 4

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= <u>\$1,125.00</u>
Total Fees	= \$1,300.00
<u>Less Payments</u>	= <u>\$ 775.00</u>
Balance Due NASD Dispute Resolution	= \$ 525.00

Respondent MCI is solely liable for:

<u>Member Fees</u>	= <u>\$2,625.00</u>
Total Fees	= \$2,625.00
<u>Less Payments</u>	= <u>\$2,625.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$1,125.00</u>
Total Fees	= \$1,125.00
<u>Less Payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,125.00

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


ARBITRATION PANEL

James A. Smith, IV	-	Public Arbitrator, Presiding Chairperson
David M. Auerbach	-	Public Arbitrator
S. William Gersten	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

James A. Smith, IV
Public Arbitrator, Presiding Chairperson

Signature Date



David M. Auerbach
Public Arbitrator



Signature Date

NOV. 9. 2004 4:44PM NASD REGULATIONS

NO. 289 P. 6/6

NASD Dispute Resolution
Arbitration No. 03-05067
Award Page 5



S. William Gersten
Non-Public Arbitrator

11/9/04
Signature Date

Date of Service (For NASD Dispute Resolution office use only)