
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Louise Spergel, as Personal Representative of the Estate of Eva Chernow
Louise Spergel, Individually
Amy Alterman

Case Number: 03-05112

Names of the Respondents

Morgan Stanley Dean Witter
Susan Somers

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Louise Spergel, as Personal Representative of the Estate of Eva Chernow ("Estate"), Louise Spergel, Individually ("Spergel"), and Amy Alterman ("Alterman"), hereinafter collectively referred to as "Claimants": Ricardo A. Reyes, Esq., Robin & Reyes, P.A., Boca Raton, Florida.

For Morgan Stanley Dean Witter ("MSDW") and Susan Somers ("Somers"), hereinafter collectively referred to as "Respondents": Michael D. Wallander, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 11, 2003.

Claimants signed the Uniform Submission Agreements: July 10, 2003.

Statement of Answer, Counterclaim and Motion to Dismiss Claimants' Claim filed by Respondents on or about: September 19, 2003.

Respondent MSDW signed the Uniform Submission Agreement: August 11, 2003.

Respondent Somers signed the Uniform Submission Agreement: September 26, 2003.

Amended Statement of Claim filed by Claimants on or about: January 9, 2004.

Statement of Answer to Claimants' Amended Statement of Claim filed by Respondents on or about: February 20, 2004.

Stipulated Motion for Award filed by the parties on or about: January 14, 2005.

CASE SUMMARY

Claimants asserted the following causes of action against Respondents: breach of fiduciary duty; negligence; breach of obligations of good faith and fair dealing; breach of contract; conversion; failure to supervise; violation of principal/agent relationship, to the extent such relationship existed; respondeat superior; and, fraud. The causes of action relate to the allegedly unauthorized transfer and conversion of funds from Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim, as amended, and asserted various defenses. In their counterclaim, Respondents asserted the cause of action of indemnification against Claimant Estate.

RELIEF REQUESTED

Claimants requested the following:

1. compensatory damages in the amount of \$39,127.21 for Claimant Spergel and \$39,233.78 for Claimant Alterman;
2. pre-award interest accruing from the date of the check withdrawals from Claimants' accounts;
3. costs and disbursements incurred in connection with the prosecution of this arbitration, including reasonable attorneys' fees; and,
4. such other and further relief as the Panel deemed just and proper.

Respondents requested that all claims asserted by Claimants be dismissed. Respondent Somers additionally requested that the Panel enter an order directing the expungement of all references to this matter from her NASD Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about December 3, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about January 31, 2005, the Panel issued an Order granting, by majority decision, the parties' Stipulated Motion for Award and directing NASD Dispute Resolution to prepare a Stipulated Award.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

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

The parties have stipulated that, upon completing discovery, it became apparent that Respondents at all times acted pursuant to instructions from third-parties who were authorized to make decisions and effect transactions in the accounts at issue. Accordingly, the Panel recommends that all references to the above-captioned arbitration be expunged from Respondent Somer's public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Somers must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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 = \$ 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. Accordingly, Respondent MSDW is a member firm and a party:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were assessed 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:

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One (1) Pre-hearing session with the Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: March 22, 2004 1 session

Total Forum Fees = \$ 750.00

Pursuant to the agreement of the parties, the Panel has assessed the total forum fees of \$750.00 to Respondent MSDW.

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

Claimants are jointly and severally liable for:

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

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$3,550.00
<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$4,300.00
<u>Less payments</u>	= \$3,900.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 400.00

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

ARBITRATION PANEL

Harold S. Stern, Esq.	-	Public Arbitrator, Presiding Chairperson
Mark C. Perry, Esq.	-	Public Arbitrator
Sandra J. Bakalus	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Harold S. Stern, Esq.
Public Arbitrator, Presiding Chairperson

February 16, 2005
Signature Date

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/s/

Mark C. Perry, Esq.
Public Arbitrator

February 14, 2005

Signature Date

Dissenting Arbitrator's Signature

/s/

Sandra J. Bakalus
Non-Public Arbitrator

February 16, 2005

Signature Date

February 16, 2005

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

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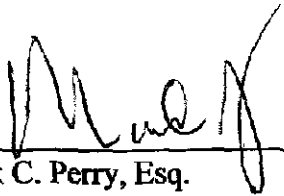
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Mark C. Perry, Esq.
Public Arbitrator

Feb 14, 05

Signature Date

Dissenting Arbitrator's Signature

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

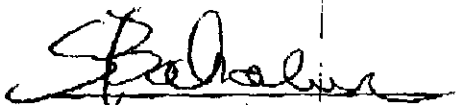
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