

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

---

In the Matter of the Arbitration Between:  
Michael Alan Stein, Claimant v. Lisa Contillo, Respondent

Case Number: 04-00538

Hearing Site: San Francisco, California

---

Nature of the Dispute: Customer vs. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Timothy D. Murphy, Esq.  
The Law Offices of James J. Seltzer  
Emeryville, California

For Respondent:

Cameron Stout, Esq.  
Keesal, Young & Logan  
San Francisco, California

**CASE INFORMATION**

This case was severed from Case No. 02-02207. In that case, the following pleadings were filed:

Statement of Claim filed: April 15, 2002

Claimant's Points and Authorities in Opposition to Motion to Dismiss Lisa Contillo and Declaration of Michael A. Stein filed: November 24, 2003

Claimant's Supplemental Reply filed: December 12, 2003

Claimant's Uniform Submission Agreement signed: April 12, 2002

Statement of Answer filed by Respondent Lisa Contillo: October 2, 2002

Memorandum of Points and Authorities in Support of Respondent Lisa Contillo's Motion to Dismiss, Declaration of Lisa Contillo and Declaration of Cameron Stout filed: September 3, 2003

Respondent Lisa Contillo's Reply Brief in Support of Motion to Dismiss filed: December 1, 2003

Supplemental Brief in Support of Respondent Lisa Contillo's Motion to Dismiss filed:  
December 10, 2003

Respondent Lisa Contillo's Supplemental Reply filed: December 15, 2003

### **CASE SUMMARY**

Claimant alleged that the above-referenced dispute involves Respondent's handling of Claimant's retirement and disability funds and that Respondent's negligent and unsuitable investment of these monies caused Claimant to suffer damages. Claimant also alleged the following claims: 1) Breach of Fiduciary Duty; 2) Negligence; 3) Joint and Several Liability; 4) Respondeat Superior; 5) Common Law Fraud; 6) Breach of Contract; 7) Breach of the Implied Covenant of Good Faith and Fair Dealing; 8) Unfair Competition; 9) Violation of Consumer Legal Remedies Act; 10) Violation of Rule 10b-5; and 11) Violation of Corporations Code Sections 25401 and 25504.1. Claimant's Claim did not indicate the specific securities at issue.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimant's Claim requested:

1. Damages of at least \$230,000.00;
2. Interest in the amount of \$46,000.00;
3. Attorneys fees;
4. Costs of at least \$1,575.00;
5. Punitive damages in the amount of \$690,000.00; and
6. Such further action deemed just and appropriate.

Respondent requested:

1. That Claimant take nothing by his claim and that this matter be dismissed in its entirety with prejudice;
2. An award in her favor including costs, attorneys' fees, arbitrators and forum fees and expenses;
3. That the arbitrators recommend that the claim be expunged from the compliance/CRD record of Lisa Contillo; and
4. Such other and further relief as the Panel deems just and equitable.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On March 10, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On November 21, 2002, Respondent's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Respondent did not file with NASD Dispute Resolution ("NASD-DR") a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, having answered Claimant's Claim, is bound by the determination of the Panel on all issues submitted.

This case was severed from Case No. 02-02207, where Lisa Contillo requested, and the Panel granted, immediate expungement of her NASD Central Registration Depository ("CRD") record. The Panel issued the following order:

1. Dismissal with prejudice of Claimant's claims against Lisa Contillo;
2. That NASD-DR sever Lisa Contillo's request for expungement;
3. That NASD-DR open a new case, with a new case number, and with a caption of Michael Alan Stein v. Lisa Contillo;
4. That the panel in case 02-02207 will be assigned to the new case;
5. That Lisa Contillo pay a \$125 filing fee within 30 days after notification of the new case number in order for NASD-DR to process the expungement. Surcharges and processing fees will not be assessed and Claimant will not be assessed any fees in the new case;
6. That the provisions of Rules 10314, 10321, and 10308 of the Code do not apply; and
7. That Mr. Stein does not have to file any further pleadings and Ms. Contillo does not have to file an answer.

The Panel 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 positions of the parties, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims by Claimant, including the claim for punitive damages, are dismissed.

- 2) The Panel recommends the expungement of all reference to the above captioned arbitration and all reference to arbitration number 02-02207 from Respondent Lisa Contillo's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Contillo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Counterclaim filing fee = \$125.00

### **Fee Summary**

Respondent is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 125.00
Less Payments	= \$(125.00)
Balance Due NASD-DR	= \$ 0.00

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

**ARBITRATION PANEL**

Matthew J. Williams	-	Public Arbitrator, Presiding Chair
Harry B. Endsley	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

M. Williams  
Matthew J. Williams  
Chair, Public Arbitrator

13 Apr 04  
Signature Date

Harry B. Endsley  
Harry B. Endsley  
Public Arbitrator

Signature Date

Nicholas J. Caputo  
Nicholas J. Caputo  
Non-Public Arbitrator

Signature Date

4/15/04  
Date of Service

ARBITRATION PANEL

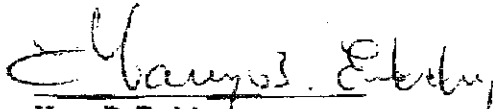
Matthew J. Williams  
Harry B. Endsley  
Nicholas J. Caputo

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Matthew J. Williams  
Chair, Public Arbitrator

Signature Date

  
Harry B. Endsley  
Public Arbitrator

4-7-2004  
Signature Date

Nicholas J. Caputo  
Non-Public Arbitrator

Signature Date

4/15/04  
Date of Service

**ARBITRATION PANEL**

Matthew J. Williams  
Harry B. Endsley  
Nicholas J. Caputo

- Public Arbitrator, Presiding Chair  
- Public Arbitrator  
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Matthew J. Williams  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Harry B. Endsley  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Nicholas J. Caputo  
Non-Public Arbitrator

4/07/04  
\_\_\_\_\_  
Signature Date

4/15/04  
\_\_\_\_\_  
Date of Service