

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

Lawrence M. Stankiewicz

and

Respondents

J.J.B. Hilliard, W.L. Lyons and  
William Joseph Konchal

**Case Number:** 04-01088

**Hearing Site:** Troy, Michigan

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**NATURE OF CASE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Lawrence M. Stankiewicz ("Claimant") was represented by Anthony V. Trogan, Esquire and Lysa Postula-Stein, Esquire, West Bloomfield, Michigan.

J.J.B. Hilliard, W.L. Lyons ("Hilliard Lyons"), and William Joseph Konchal ("Konchal"), hereinafter collectively referred to as "Respondents", were represented by Brian A. Carlis, Esquire, Stark & Stark, P.C., Princeton, New Jersey.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 9, 2004. The Submission Agreement of Claimant was signed on or about February 5, 2004.

The Statement of Answer was filed jointly by Respondents on or about May 7, 2004. The Submission Agreement of Hilliard Lyons was signed on or about February 25, 2004. The Submission Agreement of Konchal was signed on or about March 11, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; common law fraud; promissory estoppel; negligence; malpractice; breach of fiduciary duty; and breach of Michigan securities law. The causes of action related to the purchase of various unspecified securities and mutual funds, sometimes in concentrated positions, which were not in accord with Claimant's conservative income goal.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claimant and asserted affirmative defenses including: the Statement of Claim fails to state a claim upon which relief may be granted; Claimant directed, approved and authorized each and every transaction in his

account; Claimant ratified each and every transaction in his accounts; and Claimant, by his conduct, and under all the circumstances of this case, is estopped from asserting any claims with respect to the transactions made in his accounts.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages:	\$53,000.00
Interest:	\$unspecified
Attorneys' Fees:	\$unspecified
Other Costs:	\$unspecified
Exemplary Damages:	\$unspecified
Punitive Damages:	\$unspecified
Additional or Alternative Damages:	\$unspecified

Respondents requested dismissal of the Statement of Claim in its entirety, together with an award of all reasonable costs and expenses, including reasonable attorneys' fees, costs of suit and such further relief as the panel deemed just and proper.

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

On June 28, 2005, the parties advised the NASD that they had entered into a confidential settlement agreement. In particular, the parties agreed that all claims against all Respondents are dismissed with prejudice and Claimant and Respondents agreed to enter into a Stipulated Award, whereby the arbitrators would recommend the expungement of this matter from the CRD records of Respondent Konchal.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

1. The Claimant has dismissed all claims with prejudice against Respondents.
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent William Joseph Konchal's 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, Respondent William Joseph Konchal must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Other than Forum Fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
4. Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby dismissed with prejudice.

### **FEES**

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 = \$ 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. In this matter, the member firm is J.J.B. Hilliard, W.L. Lyons, Inc.

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

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 single arbitrator x \$450.00 = \$450.00  
Pre-hearing conference: April 20, 2005 1 session  
  
One (1) Pre-hearing session with Panel x \$750.00 = \$750.00  
Pre-hearing conferences: August 31, 2004 1 session  

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Total Forum Fees = \$1,200.00

The Arbitration Panel has assessed \$600.00 of the forum fees to Lawrence M. Stankiewicz.

The Arbitration Panel has assessed \$600.00 of the forum fees jointly and severally to J.J.B. Hilliard, W.L. Lyons and William Joseph Konchal.

Pursuant to NASD Code of Arbitration Procedure Rule 10332(f), Claimant's Hearing Session Deposit of \$750.00 is retained.

**FEE SUMMARY**

Claimant, Lawrence M. Stankiewicz, is liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Hilliard Lyons is liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Hilliard Lyons and Konchal, are jointly and severally liable for:

Forum Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

**ARBITRATION PANEL**

Jeffrey M. Bain, Esq. – Public Arbitrator, Presiding Chair  
John J. Hasluck, Esq. - Public Arbitrator  
Conrad W. Koski - Non-Public Arbitrator

Concurring Arbitrators:

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Jeffrey M. Bain, Esq.  
Public Arbitrator, Presiding Chair

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

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/s/ John J. Hasluck, Esq.  
John J. Hasluck, Esq.  
Public Arbitrator

\_\_\_\_\_  
07/25/05  
Signature Date

\_\_\_\_\_  
/s/ Conrad W. Koski  
Conrad W. Koski  
Non-Public Arbitrator

\_\_\_\_\_  
07/20/05  
Signature Date

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07/27/05  
Date of Service (For NASD office use only)

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NASD REGULATION

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