

**Stipulated Award
NASD Dispute Resolution**

COPY

In the Matter of the Arbitration Between:

Scott A. Maltz, Susan J. Maltz, Scott and Susan Maltz Trust Dated 7/16/96, and Maltz Associates, L.P., Claimants v. Padraig McBrien (erroneously sued as Patrick McBrien), Scott Evan Zelnick, and Lehman Brothers Inc., Respondents

Case Number: 04-01140

Hearing Site: San Francisco, California

Nature of the Dispute: Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

James Jay Seltzer, Esq.
Law Offices of James Jay Seltzer
Emeryville, California

Alan W. Sparer, Esq.
Law Offices of Alan W. Sparer
San Francisco, California

For Respondents:

Stephen Young, Esq.
James N. Jagoda, Esq.
Keesal, Young and Logan
Long Beach, California

CASE INFORMATION

Statement of Claim filed: February 19, 2004

Claimants' Joint Uniform Submission Agreement signed: February 2, 2004

Joint Statement of Answer filed by Respondents: April 29, 2004

Respondent Padraig McBrien's Uniform Submission Agreement signed: April 27, 2004

Respondent Scott Evan Zelnick's Uniform Submission Agreement signed: April 27, 2004

Respondent Lehman Brothers Inc.'s Uniform Submission Agreement signed: April 27, 2004

CASE SUMMARY

Claimants alleged violation of NASD Rules of Conduct, professional negligence, breach of fiduciary duties, negligent misrepresentation, negligent failure to supervise (respondent superior), breach of contract, unfair business practices, and violation of the Consumer Legal Remedies Act. Claimants' allegations involved investments in, but not limited to, Junior Net, Lehman Brothers Venture Capital Fund, Lehman Brothers Communications Fund, Lehman Brothers Uncommon Values Portfolio, and Lehman Brothers European Stock Uncommon Value Portfolio.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$3.5 million in compensatory damages, disgorgement, restitution, prejudgment interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety, expungement of all references to this matter from Respondents Padraig McBrien's and Scott Evan Zelnick's registration records maintained by the NASD Central Registration Depository ("CRD") and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On March 30, 2004, Claimants and Claimants' 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 April 29, 2004, Respondent Lehman Brothers Inc.'s counsel signed a Waiver Agreement on Respondent Lehman Brothers Inc.'s behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On July 8, 2005, Claimants dismissed Respondents Padraig McBrien and Scott Evan Zelnick from this matter without prejudice.

On July 19, 2005, Respondents advised NASD that a settlement had been reached and that a Stipulated Award would be requested.

On August 8, 2005, the parties submitted a stipulated request for an Award dismissing Claimants' claims with prejudice and recommending expungement of all references to the above-captioned arbitration from Respondents Padraig McBrien's and Scott Evan Zelnick's registration records maintained by CRD. The stipulation noted that Respondents Padraig McBrien and Scott Evan Zelnick did not contribute any amount toward the settlement. On August 24, 2005, the Panel deliberated via teleconference and decided to grant the request.

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

- 1) Claimants' claims are dismissed with prejudice.
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondents Padraig McBrien's and Scott Evan Zelnick's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondents Padraig McBrien and Scott Evan Zelnick must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Lehman Brothers Inc. is a party and the following fees are assessed:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 600.00
<u>Less payments</u>	<u>= \$(1,800.00)</u>
Refund Due Claimants	= \$(1,200.00)

2. Respondent Lehman Brothers Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$(8,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Andrew E. Tanenbaum	-	Public Arbitrator, Presiding Chair
Eva L. Levine	-	Public Arbitrator
Joseph H. Sturdivant	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Andrew E. Tanenbaum
Chair, Public Arbitrator



Signature Date

Eva L. Levine
Public Arbitrator

Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

8/29/05
Date of Service

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Eva L. Levine	-	Public Arbitrator
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Concurring Arbitrators' Signatures

Andrew E. Tanenbaum
Chair, Public Arbitrator

Signature Date



8-25-05

Eva L. Levine
Public Arbitrator

Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

8/29/05
Date of Service

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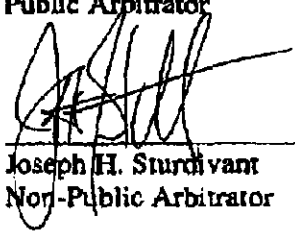
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Date of Service