
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

May N. Binder, individually,
and as Trustee for the May N. Binder Trust

Case Number: 04-02209

Names of the Respondents

K.W. Brown & Company
d/b/a K.W. Brown Investments
21st Century Advisors, Inc.
Ken Brown

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For May N. Binder, individually, and as Trustee for the May N. Binder Trust, hereinafter collectively referred to as "Claimants": Jeffrey R. Sonn, Esq., Sonn & Erez, Fort Lauderdale, Florida.

For Ken Brown ("Brown"), K.W. Brown & Company d/b/a K.W. Brown Investments ("Brown Investments"), and 21st Century Advisors, Inc. ("21st Century"), hereinafter collectively referred to as "Respondents": Stephen A. Mendelsohn, Esq., Greenberg Traurig, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2004.

Claimant signed but did not date the Uniform Submission Agreement.

Statement of Answer filed by Respondents Brown and Brown Investments on or about: June 7, 2004.

Motion to Dismiss filed by Respondent 21st Century on or about: June 7, 2004.

Respondents Brown and Brown Investments did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimants alleged the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) negligence; 4) negligent hiring and supervision; 5) violation of Chapter 517, Florida Statutes; 6) common law fraud; and 7) negligent misrepresentation. The causes of action relate to investments in shares of stock and mutual funds, including but not limited to, Aim Aggressive Growth Fund, Aim Asian Growth Funds and Aim Constellation Fund.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$500,000.00; 2) interest; 3) costs; 4) punitive damages; 5) attorney's fees; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents Brown and Brown Investments requested: 1) dismissal of the Statement of Claim; 2) attorney's fees; and 3) costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Brown and Brown Investments did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

Respondent 21st Century is not a member of NASD and did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement. On or about June 7, 2004, Respondent 21st Century filed a Motion to Dismiss 21st Century.

On or about June 10, 2004, Claimants dismissed, without prejudice, their claims against Respondent 21st Century.

On or about November 23, 2004, the Panel entered an Order denying Respondent 21st Century's Motion to Dismiss.

On or about November 30, 2004, Claimants filed their notice of settlement.

On or about December 1, 2004, the parties jointly filed an Agreed Motion for Dismissal of All Claims and for the Entry of a Stipulated Award Directing Expungement.

On or about December 15, 2004, the Panel entered an Order granting the Agreed Motion for Dismissal of All Claims and granting the Request for Entry of a Stipulated Award Directing Expungement.

On or about December 21, 2004, the Panel entered an Order waiving Claimants' share of forum fees.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings, the Agreed Motion for Dismissal of All Claims and for the Entry of a

Stipulated Award Directing Expungement, and the Panel's Order entered on December 15, 2004, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Any and all claims against Respondents are dismissed with prejudice.
2. The Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Brown'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, Respondent Brown 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 and expenses associated with the above-referenced arbitration, including attorney's fees.
4. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
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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 Brown Investments is a member firm and a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

There were no three-day cancellation fees assessed during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 per session	= \$ 2,250.00
Pre-hearing conferences: August 26, 2004 1 session	
November 23, 2004 1 session	
<hr/> Total Forum Fees	= \$ 2,250.00

The Panel has assessed forum fees in the amount of \$1,500.00 to Respondents Brown and Brown Investments, jointly and severally.

The Panel has waived forum fees in the amount of \$750.00.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Duplicate copies of audiotapes	= \$ 345.00
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Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Administrative Costs	= \$ 345.00
<hr/> Total Fees	= \$ 645.00
<u>Less payments</u>	<u>= \$ 645.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Brown Investments solely liable for:

Member Fees	= \$ 5,200.00
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Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Brown and Brown Investments are jointly and severally liable for:

Forum Fees	= \$ 1,500.00
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Total Fees	= \$ 1,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

ARBITRATION PANEL

Victoria G.A. Willingham
S. Harvey Ziegler, Esq.
Karen Z. Fischer

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Victoria G.A. Willingham
Public Arbitrator, Presiding Chairperson

2/16/2005
Signature Date

/s/
S. Harvey Ziegler
Public Arbitrator

2/15/2005
Signature Date

/s/
Karen Z. Fischer, Esq.
Non-Public Arbitrator

2/18/2005
Signature Date

2/25/2005
Date of Service (For NASD Dispute Resolution office use only)

Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Brown and Brown Investments are jointly and severally liable for:

Forum Fees	= \$ 1,500.00
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Total Fees	= \$ 1,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,500.00

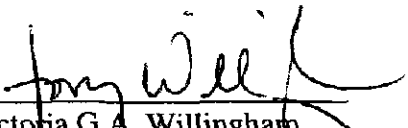
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Victoria G.A. Willingham
S. Harvey Ziegler, Esq.
Karen Z. Fischer

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Victoria G.A. Willingham
Public Arbitrator, Presiding Chairperson

16. February 2005
Signature Date

S. Harvey Ziegler
Public Arbitrator

Signature Date

Karen Z. Fischer, Esq.
Non-Public Arbitrator

Signature Date

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

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Arbitration No. 04-02209
Stipulated Award Page 5

Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Brown and Brown Investments are jointly and severally liable for:

Forum Fees	= \$ 1,500.00
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Total Fees	= \$ 1,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

ARBITRATION PANEL

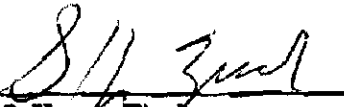
Victoria G.A. Willingham
S. Harvey Ziegler, Esq.
Karen Z. Fischer

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Victoria G.A. Willingham
Public Arbitrator, Presiding Chairperson

Signature Date


S. Harvey Ziegler
Public Arbitrator

2/15/05
Signature Date

Karen Z. Fischer, Esq.
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 04-02209
Stipulated Award Page 5

Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Brown and Brown Investments are jointly and severally liable for:

Forum Fees	= \$ 1,500.00
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Total Fees	= \$ RECEIVED
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

ARBITRATION PANEL

Victoria G.A. Willingham
S. Harvey Ziegler, Esq.
Karen Z. Fischer

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator


Concurring Arbitrators' Signatures

Victoria G.A. Willingham
Public Arbitrator, Presiding Chairperson

Signature Date

S. Harvey Ziegler
Public Arbitrator

Signature Date



Karen Z. Fischer, Esq.
Non-Public Arbitrator



Signature Date

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