

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

George F. Simms (Claimant) v. Daniel C. Shepler and Susannah Weis (Respondents)

Case Number: 04-03059

Hearing Site: Buffalo, New York

Nature of the Dispute: Customer vs. Associated Persons.

REPRESENTATION OF PARTIES

Claimant George F. Sims ("Simms") hereinafter referred to as "Claimant" appeared *pro se*.

Respondents Daniel C. Shepler ("Shepler") and Susannah Weis ("Weis") hereinafter collectively referred to as "Respondents": Dan A. Rosenbaum, Esq., UBS Financial Services, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 22, 2004.

Response to Preliminary Statements filed by Claimant.

Claimant signed the Uniform Submission Agreement: April 20, 2004.

Joint Motion to Dismiss the Statement of Claim, or in the Alternative Statement of Answer filed by Respondents on or about: June 21, 2004.

Respondent Shepler signed the Uniform Submission Agreement: June 22, 2004.

Respondent Weis signed the Uniform Submission Agreement: June 17, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise; breach of fiduciary duty; misrepresentations/non-disclosures; omission of facts; suitability; and unauthorized trading. The causes of action relate to unspecified securities.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$40,000.00; punitive damages in the

amount of \$10,000.00; forum fees in the amount of \$775.00; and other case-related costs in the amount of \$150.00.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety; costs; and such other and further relief as may be just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have 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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Daniel C. Shepler's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Daniel C. Shepler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents. Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact: The claim, allegation, or information is factually impossible or clearly erroneous.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Susannah Weis' registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Susannah Weis must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents. Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact: The claim, allegation, or information is factually impossible or clearly erroneous.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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 = \$175.00

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 persons at the time of the events giving rise to the dispute. Accordingly, UBS Financial Services, Inc. is the Respondents' firm.

Member surcharge = \$ 875.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 19-20, 2005, adjournment by Respondents = \$ 600.00

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:

Three (3) Pre-hearing sessions with Panel @ \$600.00 = \$1,800.00

Pre-hearing conferences: September 9, 2004 1 session
December 17, 2004 1 session
April 21, 2005 1 session

Two (2) Hearing sessions @ \$600.00 = \$1,200.00

Hearing Date: June 9, 2005 2 sessions

Total Forum Fees = \$3,000.00

1. The Panel has assessed \$1,500.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,500.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 175.00
Forum Fees = \$1,500.00
Total Fees = \$1,675.00
Less payments = \$ 775.00
Balance Due NASD Dispute Resolution = \$ 900.00

2. Respondents are jointly and severally liable for:

Forum Fees = \$ 1,500.00

<u>Adjournment Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 2,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,100.00

3. UBS Financial Services, Inc. is solely liable for:

<u>Member Fees</u>	= \$2,625.00
<u>Total Fees</u>	= \$2,625.00
<u>Less payments</u>	= \$2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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

ARBITRATION PANEL

Frank C. Fogl, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Thomas E. Webb, Jr., Esq.	-	Public Arbitrator
Kelly M. Lonergan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Frank C. Fogl
Frank C. Fogl, Jr., Esq.
Public Arbitrator, Presiding Chairperson

6/16/05
Signature Date

Thomas E. Webb, Jr., Esq.
Thomas E. Webb, Jr., Esq.
Public Arbitrator

Signature Date

Kelly M. Lonergan
Kelly M. Lonergan
Non Public Arbitrator

Signature Date

June 17, 2005
Date of Service (For NASD Dispute Resolution use only)

NASD REGULATION

NASD Dispute Resolution
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ARBITRATION PANEL

Frank C. Fogl, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Thomas E. Webb, Jr., Esq.	-	Public Arbitrator
Kelly M. Lonergan	-	Non-Public Arbitrator

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Frank C. Fogl, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas E. Webb, Jr., Esq.
Public Arbitrator

Signature Date



Kelly M. Lonergan
Non-Public Arbitrator

6/15/05
Signature Date

June 17, 2005
Date of Service (For NASD Dispute Resolution use only)