

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Estate of Robert Boelio, Claimant v. David S. Fernquist and Fernquist Capital Advisors, Inc.,
Respondents

Case Number: 04-03299

Hearing Site: Los Angeles, California

Nature of the Dispute: Non-Customer Estate v. Associated Person and Non-Member

REPRESENTATION OF PARTIES

For Claimant:

Dennis E. Moffett, Esq.
The Law Offices of Dennis Moffett
Detroit, Michigan

For Respondents:

Gary M. Saretsky, Esq.
Hertz, Schram & Saretsky, P.C.
Bloomfield Hills, Michigan

CASE INFORMATION

Statement of Claim filed: May 5, 2004

Claimant's Uniform Submission Agreement signed: June 22, 2004

Statement of Answer filed by Respondents: September 24, 2004

Respondent David S. Fernquist's Uniform Submission Agreement signed: September 15, 2004

Respondent Fernquist Capital Advisors, Inc.'s Uniform Submission Agreement signed:
November 18, 2004

CASE SUMMARY

Claimant alleged breach of fiduciary duty, fraud, and misrepresentation. Claimant's allegations involved Respondents' alleged failure to notify Robert Boelio that he was the beneficiary of a certain decedent's account. Claimant also concerned Respondents' alleged failure to identify certain documents in subsequent civil litigation concerning the account.

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

RELIEF REQUESTED

Claimant requested \$112,665.91 in compensatory damages, \$300,000.00 in exemplary damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Robert Boelio was the beneficiary of a certain IRA account managed by Respondents. This matter was commenced in court and subsequently ordered to arbitration.

On July 30, 2004, Claimant's Administrator 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 17, 2004, Respondents and Respondents' counsel signed a Waiver Agreement on Respondent's (s') behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On January 26, 2005, Respondents filed a Motion for Change of Venue. Claimant filed a Response to the Motion on February 9, 2005. A pre-hearing conference was held to hear the parties' respective arguments with regard to the Motion to Bar. Dennis E. Moffett, Esq. appeared for the Claimant, Gary M. Saretsky, Esq. appeared for Respondents, and the full Panel was in attendance. After due deliberation, the Panel denied the motion.

On February 11, 2004, Claimant filed a Motion to Bar Previously Litigated Issues. Respondents filed a Response to the Motion on February 25, 2005. A pre-hearing conference was held to hear the parties' respective arguments with regard to the Motion to Bar. Dennis E. Moffett, Esq. appeared for the Claimant, Gary M. Saretsky, Esq. appeared for Respondents, and the full Panel was in attendance. After due deliberation, the Panel granted the motion.

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 and the Parties request for this stipulated award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant and Respondents have entered into a confidential settlement agreement.
2. Claimant's claims are dismissed with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David S. Fernquist's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent David S. Fernquist must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The parties shall bear their respective costs, including attorney's fees.
5. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, 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	= \$ 300.00
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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 Linsco/Private Ledger Corp. employed Respondent David S. Fernquist at the time of the events giving rise to this dispute and the following fees are assessed:

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

The following adjournment fees are assessed:

September 20-22, 2005 adjournment jointly requested by the Parties.	= \$1,125.00
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1. The Panel assessed \$562.50 of the postponement fee to Claimant.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the Parties and the Chair or the Parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: February 3, 2005 1 session	
April 12, 2005 1 session	
<u>Total Forum Fees</u>	<u>= \$2,250.00</u>

1. The Panel assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant The Estate of Robert Boelio is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,987.50
Less payments	= \$(2,175.00)
Refund Due from NASD Dispute Resolution	= \$ (187.50)

2. Member firm Linsco/Private Ledger is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(7,000.00)
Refund Due from NASD Dispute Resolution	= \$(1,800.00)

3. Respondents David S. Fernquist and Fernquist Capital Advisors, Inc. are charged jointly and severally with the following fees and costs:

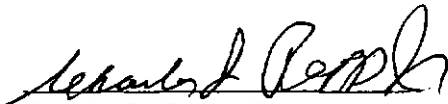
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,687.50
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

Charles L. Repp, Jr.	-	Public Arbitrator, Presiding Chair
Robert S. Granas	-	Public Arbitrator
Brian L. Spahr, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

 11/23/05
Charles L. Repp, Jr.
Chair, Public Arbitrator

 11/23/05
Signature Date

Robert S. Granas
Public Arbitrator

Signature Date

Brian L. Spahr, CFP
Non-Public Arbitrator

Signature Date

December 2, 2005
Date of Service

ARBITRATION PANEL

Charles L. Repp, Jr.	-	Public Arbitrator, Presiding Chair
Robert S. Granas	-	Public Arbitrator
Brian L. Spahr, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Charles L. Repp, Jr.
Chair, Public Arbitrator

Signature Date

Robert S. Granas
Robert S. Granas
Public Arbitrator

November 22, 2005
Signature Date

Brian L. Spahr, CFP
Non-Public Arbitrator

Signature Date

December 2, 2005
Date of Service

ARBITRATION PANEL

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Robert S. Granas	-	Public Arbitrator
Brian L. Spahr, CFP	-	Non-Public Arbitrator

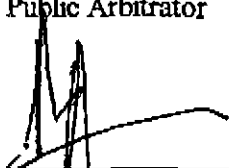
Concurring Arbitrators' Signatures

Charles L. Repp, Jr.
Chair, Public Arbitrator

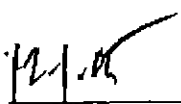
Signature Date

Robert S. Granas
Public Arbitrator

Signature Date



Brian L. Spahr, CFP
Non-Public Arbitrator



Signature Date

December 2, 2005
Date of Service