
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Archer Alexander Securities Corporation

Case Number: 04-04151

Names of the Respondents
Jamie L. Solow
Ryan Beck & Co., Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Member vs. Associated Person and Member.

REPRESENTATION OF PARTIES

For Archer Alexander Securities Corporation, hereinafter referred to as "Claimant": Paul G. Schepers, Esq. and Lara M Owens, Esq., Seigfreid, Bingham, Levy, Selzer & Gee, Kansas City, Missouri.

For Respondent Jamie L. Solow ("Solow"): Carl F. Schoeppl, Esq., Schoeppl & Burke, P.A., Boca Raton, Florida.

For Respondent Ryan Beck & Co., Inc. ("RB&C"), Arthur L. Smith, Esq., Husch & Eppenberger, LLC, St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: June 11, 2004.

Claimant signed the Uniform Submission Agreement: June 11, 2004.

First Amended Statement of Claim filed on or about: August 24, 2004.

Supplement to First Amended Statement of Claim filed on or about: September 1, 2004.

Motion for Extension of Time to Respond to First Amended Statement of Claim and for Bar and Sanctions against Claimant's Counsel filed by Respondent Solow on or about: October 14, 2004.

Brief in Opposition to Motion for Extension of Time to Respond to First Amended Statement of Claim and for Bar and Sanctions against Claimant's Counsel filed by Claimant on or about: October 28, 2004.

First Supplement to Motion for Extension of Time to Respond to First Amended Statement of Claim filed by Respondent Solow on or about: October 28, 2004.

Response to First Amended Statement of Claim filed by Respondent RB&C on or about: November 4, 2004.

Motion to Dismiss, Answer to [First Amended] Statement of Claim, Affirmative Defenses and Counterclaim filed by Respondent Solow on or about: November 5, 2004.

First Amended Response to First Amended Statement of Claim filed by Respondent RB&C on or about: November 12, 2004.

Respondent Solow signed the Uniform Submission Agreement: December 11, 2004.

Motion to Dismiss and Memorandum in Support of Motion to Dismiss filed by Respondent RB&C

on or about: January 18, 2005.

Brief in Opposition to Respondent RB&C's Motion to Dismiss filed by Claimant on or about: February 14, 2005.

Answer to Respondent Solow's Counterclaim and Brief in Opposition to Respondent Solow's Motion to Dismiss filed by Claimant on or about: February 14, 2005.

Amended Answer to Respondent Solow's Counterclaim filed by Claimant on or about: February 16, 2005.

[Unopposed] Amendment by Interlineation of First Amended Response to First Amended Statement of Claim filed by Respondent RB&C on or about: February 16, 2005.

Memorandum in Support of Motion to Dismiss filed by Respondent Solow on or about: February 28, 2005.

Reply Memorandum in Support of Motion to Dismiss filed by Respondent RB&C on or about: March 1, 2005.

Second Amended Statement of Claim filed by Claimant on or about: April 15, 2005.

Response to Second Amended Statement of Claim filed by Respondent Solow on or about: April 28, 2005.

Response to Second Amended Statement of Claim filed by Respondent RB&C on or about: April 29, 2005.

Unopposed Motion to Amend Second Amended Statement of Claim by Interlineation filed by Claimant on or about: June 23, 2005.

Post-Hearing Brief filed by Respondent Solow on or about: February 21, 2006.

Post-Hearing Brief filed by Claimant on or about: February 21, 2006.

CASE SUMMARY

Claimant asserted the following causes of action against Respondent Solow: violation and breach of industry rules, practices, procedures and customs; violation and breach of the express and implied contractual and agency duties owed to Claimant; violation and breach of the fiduciary and legal duties owed to Claimant; and fraud. Claimant further asserted the following causes of action against Respondent RB&C: violation and breach of industry rules, practices, procedures and customs; fraud; and wrongful and tortious coercion. The causes of action relate to Respondent Solow's purchase for Claimant, through Respondent RB&C, of \$25,000,000.00 FHR 2693 AS Bonds.

Unless specifically admitted in its Answer, Respondent RB&C denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Respondent Solow denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses. Additionally, Respondent Solow asserted a counterclaim in which he asserted the cause of action of conversion of funds from his personal customer account with Claimant.

Unless specifically admitted in its Amended Answer to the Counterclaim, Claimant denied the allegations contained in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested that the Panel enter an award ordering Respondents to pay to Claimant compensatory damages in the amount of not less than \$10,000,000.00, interest, an unspecified amount of punitive damages, costs and expenses incurred in

this arbitration, including statutory attorneys' fees, and such other and further relief as justice requires. Claimant further requested the Respondent Solow's Counterclaim be dismissed. At the evidentiary hearing and in its post-hearing brief, Claimant amended the amount of compensatory damages requested to approximately \$5,473,991.71.

Respondent RB&C requested that Claimant's claims be dismissed, and that the Panel award Respondent RB&C its costs and attorneys' fees.

In his Counterclaim, Respondent Solow requested the following: compensatory damages in the amount of at least \$1,500,000.00; such other and further damages in accordance with the proof adduced at the final hearing; that all references to this matter be expunged from his NASD Central Registration Depository ("CRD") records; that the Panel order Claimant to return to Respondent Solow the value of the funds/securities contained in Respondent Solow's account, plus pre-judgment interest at the legal rate pursuant to Sections 687.01 and 55.03 of the Florida Statutes; that the Panel make an express finding that Respondent Solow has prevailed under a theory that permits the recovery of attorneys' fees and costs under Section 57.105 of the Florida Statutes; that the Panel order Claimant to reimburse Respondent Solow for all filing fees, hearing session deposits, forum fees and any and all other costs and expenses incurred in this proceeding; and such other and further relief as deemed just and proper by the Panel. At the evidentiary hearing and in his post-hearing brief, Respondent Solow amended the amount of compensatory damages requested to approximately \$1,000,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent RB&C did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to NASD Code of Arbitration Procedure (the "Code"), and having filed a Statement of Answer, is bound by the determination of the Panel on all issues submitted.

Although none of the parties in this arbitration proceeding are public customers, the Statement of Claim, as amended, contains allegations of fraud and tortious coercion. Accordingly, pursuant to Rule 10308 of the Code, NASD Dispute Resolution initially appointed a panel comprised of two public arbitrators and one non-public arbitrator. Thereafter, at the request of and pursuant to the agreement of the parties, NASD Dispute Resolution modified the panel composition to be comprised of three non-public arbitrators.

On or about January 25, 2005, the Panel accepted into the record Respondent Solow's Motion to Dismiss, Answer to [First Amended] Statement of Claim, Affirmative Defenses and Counterclaim. Additionally, the Panel deemed Respondent Solow's Motion for Bar and Sanctions against Claimant's Counsel moot.

Respondent RB&C filed a motion to dismiss in which it asserted, among other things, that Claimant's claims have no merit. Respondent Solow filed a motion to dismiss in which he asserted that the claims against him should be dismissed for failing, as a matter of law, to state a viable claim. In its response to both motions, Claimant stated that it was agreed that Respondents' motions to dismiss would be subjected to the same standards applicable to such motions in court proceedings, and therefore must be denied. On or about March 21, 2005, the Panel issued an Order that denied Respondents' respective motions.

Pursuant to the agreement of the parties, Claimant filed an Amended Answer to Respondent Solow's Counterclaim, which was accepted by the Panel.

Pursuant to the agreement of the parties, Claimant filed a Second Amended Statement of Claim, which was accepted by the Panel.

Pursuant to the agreement of the parties, Respondent RB&C amended, by interlineation, its First Amended Response to Claimant's First Amended Statement of Claim in order to correct scrivener's errors, which was accepted by the Panel.

On or about August 2, 2005, the Panel issued an Order granting Claimant's unopposed Motion to Amend the Second Amended Statement of Claim by Interlineation.

On or about August 26, 2005, Claimant filed a dismissal, with prejudice, of all claims against Respondent RB&C.

Just prior to closing arguments at the evidentiary hearing, Respondent Solow moved to dismiss all of Claimant's claims, asserting that Claimant ratified the transaction by virtue of accepting delivery of the bonds. Claimant objected, stating that acceptance of the bonds did not constitute legal ratification. The Panel took the motion under advisement.

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 pleadings and the testimony and evidence presented at the hearing, as well as the post-hearing submissions filed by the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's amended claim is granted in part. Respondent Solow is liable on the claims of violation and breach of the express and implied contractual and agency duties owed to Claimant and violation and breach of the fiduciary and legal duties owed to Claimant. As such, Respondent Solow shall pay to Claimant compensatory damages in the amount of \$603,991.00.

Respondent Solow's motion to dismiss, entered at the evidentiary hearing, is denied.

Respondent Solow's counterclaim is denied in its entirety.

Any and all claims for relief not specifically addressed herein, including Claimant's request for attorneys' fees and an award of punitive damages, and Respondent Solow's requests for expungement, attorneys' fees and costs pursuant to Section 57.105 of the Florida Statutes, filing fees, and pre-judgment interest pursuant to Sections 687.01 and 55.03 of the Florida Statutes, are 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	= \$2,500.00
Respondent Solow's Counterclaim filing fee	= \$ 500.00

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.

Accordingly, Claimant and Respondent RB&C are member firms and parties.

Claimant's Member surcharge	= \$3,350.00
Claimant's Pre-hearing process fee	= \$ 750.00
<u>Claimant's Hearing process fee</u>	<u>= \$5,500.00</u>
Claimant's Total Member Fees	= \$9,600.00

Respondent RB&C's Member surcharge	= \$3,350.00
Respondent RB&C's Pre-hearing process fee	= \$ 750.00
<u>Respondent RB&C's Hearing process fee</u>	<u>= \$5,500.00</u>
Respondent RB&C's Total Member Fees	= \$9,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$ 4,800.00
Pre-hearing conferences:	
January 20, 2005	1 session
March 18, 2005	1 session
September 6, 2005	1 session

November 23, 2005 1 session

Thirteen (13) Hearing sessions @ \$1,200.00/session = \$15,600.00

Hearing Dates:	January 31, 2006	3 sessions
	February 1, 2006	2 sessions
	February 2, 2006	3 sessions
	February 3, 2006	3 sessions
	February 4, 2006	2 sessions

Total Forum Fees = \$20,400.00

The Panel has assessed forum fees of \$800.00 to Respondent RB&C.

The Panel has assessed forum fees of \$9,800.00 Claimant.

The Panel has assessed forum fees of \$9,800.00 to Respondent Solow.

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

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 2,500.00
Member Fees	= \$ 9,600.00
<u>Forum Fees</u>	<u>= \$ 9,800.00</u>
Total Fees	= \$21,900.00
<u>Less payments</u>	<u>= \$13,300.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,600.00

Respondent RB&C is solely liable for:

Member Fees	= \$ 9,600.00
<u>Forum Fees</u>	<u>= \$ 800.00</u>
Total Fees	= \$10,400.00
<u>Less payments</u>	<u>= \$ 9,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 800.00

Respondent Solow is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 9,800.00</u>
Total Fees	= \$10,300.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,600.00

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

ARBITRATION PANEL

Raymond W. Snow	-	Non-Public Arbitrator, Presiding Chairperson
Mark Sidell	-	Non-Public Arbitrator
Berthold T. Berkwich	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Raymond W. Snow
Non-Public Arbitrator, Presiding Chairperson

03/02/06
Signature Date

_____/s/_____
Mark Sidell
Non-Public Arbitrator

03/03/06
Signature Date

_____/s/_____
Berthold T. Berkwich
Non-Public Arbitrator

03/03/06
Signature Date

03/03/06
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 04-04151

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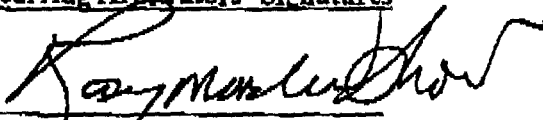
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- Non-Public Arbitrator

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3/2/06

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Signature Date

Non-Public Arbitrator, Presiding Chairperson

Mark Sidell

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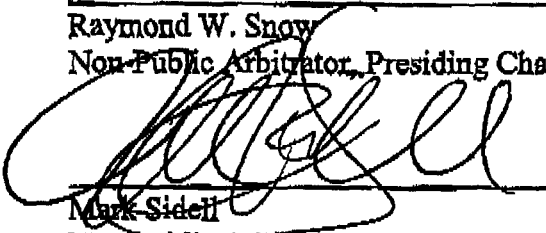
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Non-Public Arbitrator, Presiding Chairperson

Signature Date



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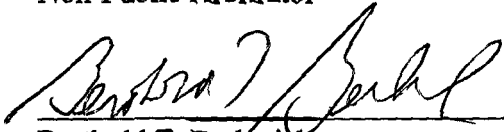
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