
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Gerald W. Spranger

Case Number: 04-04791

Name of the Respondents
SII Investments, Inc.,
and Mick J. McDermott

Hearing Site: Milwaukee, Wisconsin

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

REPRESENTATION OF PARTIES

Claimant, Gerald W. Spranger, ("Spranger"), or, ("Claimant"), was represented by Gregory Pitts, Esq., of Schoone, Leuck, Kelley, Pitts & Knurr, located in Racine, Wisconsin.

Respondent SII Investments, Inc., ("SII"), was represented by Ross A. Anderson of Whyte, Hirschboek, Dudek, SC, located in Milwaukee, Wisconsin.

Respondent Mick J. McDermott, ("McDermott"), was represented by Brian Guilbeault, Esq., of Gutglass, Erickson, Bonville, Seibel & Falkner located in Milwaukee, Wisconsin.

CASE INFORMATION

Claimant's Statement of Claim filed on: Agreement: July 9, 2004.

Claimant, Gerald W. Spranger, signed the Uniform Submission Agreement June 30, 2004.

Statement of Answer was filed by Respondent SII: on August 30, 2004.

Respondent, SSI, signed the Uniform Submission Agreement: July 16, 2004.

Statement of Answer was filed by Respondent McDermott: February 2, 2005.

Respondent McDermott did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: Respondents engaged in fraud, forgery and misrepresentation; Respondents made unsuitable investments; Respondents and their agents breached their agreement with Claimant; SII failed to supervise its agents; and, Respondents failed to exercise the investment directives of Claimant. The causes of action relate to the purchase and sale of an A. G. E. Annuity and a Transamerica Annuity.

Unless specifically admitted in its Answer, Respondent SII denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to mitigate his damages; Claimant is barred by the doctrine of laches and equitable estoppel; and SII did not proximately cause Claimant's damages.

Unless specifically admitted in its Answer, Respondent McDermott denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's Statement of Claim is conclusory; Claimant was aware of all transactions in his account and approved of all transactions; Claimant assumed the risks of trading in the financial market; Claimant's investment decreased due to market factors; Claimant ratified all transactions in his account; Claimant failed to mitigate his damages; Claimant received written confirmation of each transaction and trade in his account; Respondent did not proximately cause Claimant's damages; Claimant's claims for negligence, breach of fiduciary duty, and breach of contract are barred by the economic loss doctrine; and Claimant's alleged damages are speculative.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 150,000.00
Punitive Damages	\$ 345,000.00
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified

Respondent requested that of claims against it be dismissed in their entirety with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent McDermott did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement, but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing is bound by the decisions of the Panel.

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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

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 Gerald W. Spranger's claims against Respondents SII investments, Inc., and Mick J. McDermott are dismissed in their entirety with prejudice;
2. Any and all costs in connection with this arbitration, other than the forum fees stated below, shall be borne by the party who incurred them; and,
3. Any and all relief not specifically addressed herein, 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 = \$ 300.00

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, SII Investments, Inc., is the Respondent firm.

Member surcharge = \$ 1,700.00
 Pre-hearing process fee = \$ 750.00
 Hearing process fee = \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel at \$1,125.00 = \$2,250.00

Pre-hearing conference(s): December 29, 2004 1 session
 January 31, 2005 1 session

Six (6) hearing sessions at \$1,125.00 = \$ 6,750.00

Hearing Dates: May 24, 2005 2 sessions
 May 25, 2005 2 sessions
 May 26, 2005 2 sessions

Total Forum Fees = \$9,000.00

1. The Panel has assessed \$ 4,500.00 of the forum fees to Claimant Gerald W. Spranger.
2. The Panel has assessed \$ 4,500.00 of the forum fees to Respondents SII Investments, Inc. and Mick J. McDermott jointly and severally.

Fee Summary

Claimant, Gerald W. Spranger, is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 4,500.00
Total Fees	= \$ 4,800.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

Respondent, SII Investment, Inc., is solely liable for:

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

Respondents, SII Investments, Inc. and Mick J. McDermott, are jointly and severally liable for:

Forum Fees	= \$ 4,500.00
<u>Less Payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

ARBITRATION PANEL

John K. Notz, Jr., Esq.- Public Arbitrator, Presiding Chairperson

Jerry D. Mc Cormack, Esq.- Public Arbitrator

Gregory G. Wille- Non-Public Arbitrator

Concurring Arbitrators' Signatures

John K. Notz, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jerry D. Mc Cormack, Esq.
Public Arbitrator

Signature Date

Gregory G. Wille
Non-Public Arbitrator

Signature Date

June 23, 2005

Date of Service (For NASD Dispute Resolution use only)

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NASD Dispute Resolution, Inc.

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