

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Bruce P. Guido, Bruce P. Guido SEP/IRA, Bruce P. Guido, Trustee Bruce P. Guido II, and Bruce P. Guido, Trustee Laura Elise Guido (Claimants) v. McDonald Investments, Inc., and Peter Plungas (Respondents)

Case Number: 04-07468

Hearing Site: Cleveland, Ohio

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Nature of the Dispute: Customers v. Member Firm and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants Bruce P. Guido ("Guido"), Bruce P. Guido SEP/IRA ("SEP/IRA"), Bruce P. Guido, Trustee, Bruce P. Guido II ("P. Guido"), and Bruce P. Guido, Trustee, Laura Elise Guido ("L. Guido"): George L. Badovick, Chardon, OH.

Respondents McDonald Investments, Inc., ("McDonald") and Peter Plungas ("Plungas") hereinafter collectively referred to as "Respondents": Karen L. Griffin, Esq., Griffen & Kaminski, LLC, Cleveland, OH.

**CASE INFORMATION**

Statement of Claim filed on or about: October 6, 2004.

Claimants' Opposition to the Motion to Dismiss filed on or about: March 3, 2005.

Claimants signed the Uniform Submission Agreement: October 18, 2004.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: February 17, 2005.

McDonald signed the Uniform Submission Agreement: January 5, 2005.

Plungas signed the Uniform Submission Agreement: January 28, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: negligence, failure to follow instructions, misrepresentations, improper diversification, churning, failure to supervise, and manipulations.

Claimants' claims involved technology-based stocks, and Class B Funds or lower, including among others, Fidelity Adv Treasury FD Daily Money Class C; PIMCO Renaissance Fund Class C; PIMCO Money Market Fund Class C; New Economy Fund Class C; and Bear Sterns Money Market Class C.

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1.2 million, costs including the \$500.00 filing fee and \$1,200.00 hearing session deposit, attorneys' fees and interest.

Respondents requested that the panel dismiss the Statement of Claim, an award of all costs, expenses and attorney fees incurred by Respondents in connection with their defense of this matter, and an order of expungement complying with the requirements of NASD Rule 2130.

### **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. Claimants' claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Peter Plungas' registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Peter Plungas 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 false. In addition, the Panel's expungement order is based on the defamatory nature of the information in the CRD system.

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	= \$ 500.00
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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, McDonald Investments, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

March 1, 2 and 3, 2006 adjournment by Respondents	= \$1,200.00
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#### **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 @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: May 20, 2005	1 session
March 1, 2006	1 session
Five (5) Hearing sessions @ \$1,200.00	= \$ 6,000.00
Hearing Dates: October 11, 2006	2 sessions
October 12, 2006	2 sessions
October 13, 2006	1 session
<b>Total Forum Fees</b>	<b>= \$8,400.00</b>



1. The Panel has assessed \$4,200.00 of the forum fees against Bruce P. Guido.
2. The Panel has assessed \$4,200.00 of the forum fees against McDonald Investments, Inc.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00
  
2. Claimant Bruce P. Guido is solely liable for:

Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,200.00
Less Payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00
  
3. Respondent McDonald is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$12,750.00
Less payments	= \$12,750.00
Balance Due NASD Dispute Resolution	= \$ 0.00
  
4. Respondents are jointly and severally liable for:

Adjournment Fee	= \$1,200.00
Total Fees	= \$1,200.00
Less Payments	= \$ 800.00
Balance Due NASD Dispute Resolution	= \$ 400.00

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

Marc A. Winters	-	Public Arbitrator, Presiding Chairperson
Mitchell B. Goldberg, Esq.	-	Public Arbitrator
Edward L. Roth	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Marc A. Winters  
Public Arbitrator, Presiding Chairperson

10/18/06  
Signature Date

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Mitchell B. Goldberg, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Edward L. Roth  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

October 19, 2006  
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Date of Service (For NASD Dispute Resolution use only)


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Marc A. Winters	-	Public Arbitrator, Presiding Chairperson
Mitchell B. Goldberg, Esq.	-	Public Arbitrator
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Public Arbitrator, Presiding Chairperson

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