
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Allison Blair Kumble

Hilary Alexandra Kumble-Freeman

Case Number: 04-08136

Names of the Respondents

Daniel F. Keisman

Myrna Keisman

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Customer.

REPRESENTATION OF PARTIES

For Allison Blair Kumble and Hilary Alexandra Kumble-Freeman, hereinafter collectively referred to as "Claimants": Laura J. Starr, Esq., Law Office of Mandel, Weisman & Brodie, P.A. Boca Raton, Florida.

For Daniel F. Keisman and Myrna Keisman, hereinafter collectively referred to as "Respondents": Alan J. Foxman, Esq., Law Office of Alan J. Foxman, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 28, 2004.

Claimants signed the Uniform Submission Agreement: October 28, 2004.

Answer to Statement of Claim filed by Respondents on or about: March 18, 2005.

Respondents did not file an executed Uniform Submission Agreement.

Agreed Motion for the Entry of a Stipulated Award Directing Expungement filed by Claimants on or about: April 28, 2005.

CASE SUMMARY

Claimants asserted the following: 1) The Keismans filed a separate NASD action (NASD Case No. 02-07737) against Claimants with respect to activity in their Morgan Stanley accounts handled by Claimants; 2) Claimants answered Statement of Claim in NASD Case No. 02-07737 and denied being liable to Respondents because Respondents hired money managers to manage their investment accounts, and their claim was a result of a misunderstanding which was later resolved to the parties' satisfaction; 3) Claimants and Respondents entered into a confidential Settlement whereby all claims in NASD Case No. 02-07737 were dismissed with prejudice; 4) as part of the settlement of NASD Case No. 02-07737, Respondents agreed to cooperate with Claimants in obtaining an expungement order of the dispute set forth in NASD Case No. 02-07737 from Kumble and Freeman's CRDs; 5) Kumble and Freeman did not pay any money to the Keismans in return for the dismissal of the Keisman dispute (NASD Case No. 02-07737).

RELIEF REQUESTED

Claimants requested: 1) that the NASD enter an Award stating that the Central Registration Depository ("CRD") shall expunge the Keisman dispute (NASD Case No. 02-07737) and its resolution from the records of Kumble and Freeman.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have 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, the Agreed Motion for the Entry Of a Stipulated Award Directing Expungement, and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Due to the fact that Case No. 02-7737 was filed prior to the effective date of NASD Rule 2130, that Rule should have no applicability to this matter. However, even if Rule 2130 were in effect for this case, it would appear that Sections 2130(b)(1)(A) or (B) would most likely be applicable. At the time the Keismans filed their claim in Case No. 02-7737 the Keismans believed they had a valid cause of action against Kumble and Kumble-Freeman. Subsequent discovery, however, led the Keismans to the conclusion that the evidence that was then available to them would not support the claims made against Respondents Kumble and Kumble-Freeman. Hence, the undersigned arbitrator ("Arbitrator") believes that the causes of action asserted against Respondents Kumble and Kumble-Freeman could be considered "clearly erroneous" and/or that Respondents Kumble and Kumble-Freeman were "not involved in the alleged investment-related sales practice violation".
- 2) The Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondents Kumble's and Kumble-Freeman's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Kumble and Kumble-Freeman must obtain confirmation of this award from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) 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.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$250.00

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. Morgan Stanley DW, Inc. employed Claimants at the time of the events giving rise to the dispute.

Member surcharge	= \$1,500.00
<u>Pre-hearing process fee</u>	= \$ 750.00
Total Member Fees	= \$2,250.00

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 Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: April 28, 2005	1 session

Total Forum Fees	= \$450.00
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The Arbitrator has assessed forum fees of \$225.00 to Claimants, joint and several.

The Arbitrator has assessed forum fees of \$225.00 to Respondents, joint and several.

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 incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 225.00
Total Fees	= \$ 475.00
Less payments	= \$ 475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 225.00
Total Fees	= \$ 225.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 225.00

Morgan Stanley DW, Inc. is liable for:

Member Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$2,250.00
Balance Due NASD Dispute Resolution	= \$ 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

John E. Sutton

Public Arbitrator

Arbitrator's Signature

/s/
John E. Sutton
Sole Public Arbitrator

7/15/2005
Signature Date

7/15/2005
Date of Service (For NASD Dispute Resolution use only)

