

Stipulated Award

NASD Dispute Resolution

In the Matter of the Arbitration Between:

Stephen A. Genna (Claimant) vs. S.W. Bach & Company, Michael Gogliucci, Berton Seltzberg and Daniel Otoy (Respondents)

Case Number: 04-08160

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Stephen A. Genna hereinafter referred to as "Claimant": Appeared *pro se*. Previously represented by M. David Sayid, Esq., Sayid and Associates LLP, New York, NY.

Respondents S.W. Bach & Company ("S.W. Bach"), Berton Seltzberg ("Seltzberg"), and Daniel Otoy ("Otoy"): David U. Gourevitch, Esq., Law Offices of David Gourevitch, P.C., New York, NY.

Respondent Michael Gogliucci herein after referred to as "Gogliucci": Ernest Badaway, Esq., Saiber Schlesinger Satz & Goldstein, LLC, Newark, NJ.

CASE INFORMATION

Statement of Claim filed on or about: November 29, 2004.

Claimant signed the Uniform Submission Agreement: December 2, 2004.

Joint Statement of Answer filed by Respondents S.W. Bach, Seltzberg, and Otoy on or about: January 26, 2005.

S.W. Bach signed the Uniform Submission Agreement: January 3, 2005.

Seltzberg signed the Uniform Submission Agreement: January 3, 2005.

Otoy signed the Uniform Submission Agreement: January 3, 2005.

Gogliucci's Statement of Answer and Counterclaim filed on or about: January 26, 2005.

Gogliucci signed the Uniform Submission Agreement: January 26, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: failure to supervise, common law fraud, securities fraud, breach of fiduciary duty, negligence, breach of duty of good faith and fair dealing, breach of contract, rule violations, respondeat superior and state security law violations. The causes of action relate to the purchase of options and futures on margin.

Unless specifically admitted in their Answer, Respondents S.W. Bach, Seltzberg, and Otoyá denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Respondent Gogliucci denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

In his Counterclaim, Respondent Gogliucci asserted the following causes of action: . . . expungement of his CRD records.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$250,000.00, exemplary damages in the amount of \$750,000.00, reasonable attorneys' fees of at least \$40,000.00, plus such other and further relief as the Panel deems just and proper.

Respondents S.W. Bach, Seltzberg, and Otoyá requested dismissal of the Statement of Claim in its entirety, award costs and expenses of this arbitration and such other and further relief as is just and proper.

Respondent Gogliucci requested that the Statement of Claim be dismissed in its entirety, an award be entered against Claimant for forum and hearing fees, attorneys' fee and all other expenses and costs, expungement of his CRD record, and such other and further relief that the Panel may deem just, proper, and equitable.

In his Counterclaim, Respondent Gogliucci requested, that the arbitration panel enter an award expunging the Statement of Claim from his Forum U-4 CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 23, 2005, the parties submitted to NASD Dispute Resolution their Settlement Agreement and proposed Stipulated Award. Claimant withdrew his claims against all Respondents and Respondent Gogliucci withdrew his Counterclaim.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation

thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are hereby withdrawn with prejudice.
2. Respondent Gogliucci's Counterclaim is withdrawn with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Gogliucci's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Michael Gogliucci 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, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Berton Seltzberg's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Berton Seltzberg 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, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

5. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Daniel Otoya's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Daniel Otoya 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, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

6. Any and all relief not specifically addressed herein, including exemplary damages, 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 = \$ 375.00

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 persons at the time of the events giving rise to the dispute. In this matter, S.W. Bach & Company is a party.

Member Surcharge = \$ 2,250.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$ 4,000.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

(2) Pre-hearing conference sessions with a single arbitrator (@ \$450.00/session = \$ 900.00

Pre-hearing conferences: July 19, 2005 1 session

September 30, 2005 1 session

(1) Pre-hearing conference session with the Panel @ \$1,200.00/session = \$ 1,200.00

Pre-hearing conference: June 6, 2005 1 session

Total Forum Fees = \$ 2,100.00

1. Pursuant to the parties' agreement, Claimant is assessed \$420.00 of the forum fees.

2. Pursuant to the parties' agreement, Respondent S.W. Bach is assessed \$420.00 of the forum fees.
3. Pursuant to the parties' agreement, Respondent Gogliucci is assessed \$420.00 of the forum fees.
4. Pursuant to the parties' agreement, Respondent Seltzberg is assessed \$420.00 of the forum fees.
5. Pursuant to the parties' agreement, Respondent Otoya is assessed \$420.00 of the forum fees.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 420.00
Total Fees	= \$ 795.00
Less payments	= \$ 1,575.00
Refund Due Claimant	= \$ 780.00

2. Respondent S.W. Bach is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 420.00
Total Fees	= \$ 7,420.00
Less payments	= \$ 8,000.00
Refund Due Respondent S.W. Bach	= \$ 580.00

3. Respondent Gogliucci is solely liable for:

Forum Fees	= \$ 420.00
Total Fees	= \$ 420.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 420.00

4. Respondent is Seltzberg solely liable for:

Forum Fees	= \$ 420.00
Total Fees	= \$ 420.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 420.00

5. Respondent Otoya is solely liable for:

Forum Fees	= \$ 420.00
Total Fees	= \$ 420.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 420.00

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

ARBITRATION PANEL

Gale S. Sanders, Esq.	-	Public Arbitrator, Presiding Chairperson
Gloria Messinger, Esq.	-	Public Arbitrator
Ellen Slipp, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Gale S. Sanders
Gale S. Sanders, Esq.
Public Arbitrator, Presiding Chairperson

3/16/06
Signature Date

Gloria Messinger, Esq.
Public Arbitrator

Signature Date

Ellen Slipp, Esq.
Non-Public Arbitrator

Signature Date

April 28, 2006
Date of Service (For NASD office use only)

ARBITRATION PANEL


Gale S. Sanders, Esq.	-	Public Arbitrator, Presiding Chairperson
Gloria Messinger, Esq.	-	Public Arbitrator
Ellen Slipp, Esq.	-	Non-Public Arbitrator

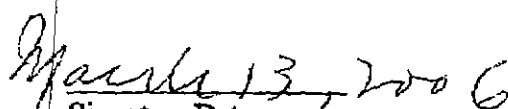
Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Gale S. Sanders, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Gloria Messinger, Esq.
Public Arbitrator


Signature Date

Ellen Slipp, Esq.
Non-Public Arbitrator

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