

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert Nelson Adler (Claimant) v. Dr. Ulises C. Sabato (Respondent)

Case Number: 05-00844

Hearing Site: New York, New York

Nature of the Dispute: Associated Person v. Customer.

REPRESENTATION OF PARTIES

Claimant Robert Nelson Adler hereinafter referred to as "Claimant": Christopher G. Massey, Esq., Bressler, Amery & Ross, P.C. New York, NY. Previously represented by Hugo Hilgendorff, Esq., and Erika Schneider Downes, Esq., Bressler, Amery & Ross, P.C. New York, NY.

Respondent Dr. Ulises C. Sabato hereinafter referred to as "Respondent": Brian Carlis, Esq., Stark & Stark, Lawrenceville, NJ.

CASE INFORMATION

Statement of Claim filed on or about: February 9, 2005.

Claimant signed the Uniform Submission Agreement: November 18, 2004.

Respondent did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: expungement of CRD record.

RELIEF REQUESTED

Claimant requested the following: (1) Execution of a Stipulated Award in a form similar to that which was submitted to the NASD Dispute Resolution by the parties in NASD Case No. 02-04936; (2) Dismissal with prejudice of all claims made by Dr. Sabato in NASD Case No. 02-04936; and (3) A recommendation of the expungement of any reference to Arbitration proceeding NASD Case No. 02-04936 from the registration records of Robert N. Adler as maintained by the CRD.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent waived Section 10314(b) of the NASD Code of Arbitration Procedure, which pertains to the filing of an Answer and Section 10308 as it relates to the selection of an arbitration Panel.

On or about September 19, 2005 the parties submitted a proposed Stipulated Award.

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. The Panel recommends the expungement of all reference to NASD Case No. 02-04936 from Claimant Robert N. Adler's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Claimant Robert N. Adler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. Claimant is liable for and shall bear all fees associated with filing of this matter.
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 | = \$ 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. Accordingly, Morgan Stanley Dean Witter, Inc. is the Claimant's firm.

| | |
|----------------------------|----------------------|
| Member surcharge | = \$ 1,500.00 |
| Pre-hearing process fee | = \$ 750.00 |
| <u>Hearing process fee</u> | <u>= \$ 2,200.00</u> |
| Total Member fees | = \$ 4,450.00 |

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 per session | = \$ | 450.00 |
| Pre-hearing conference: June 6, 2005 1 session | | |
| <u>Total Forum Fees</u> | = \$ | <u>450.00</u> |

1. The Arbitrator has assessed \$450.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is solely liable for:

| | | |
|------------------------|------|-----------------|
| Initial Filing Fee | = \$ | 250.00 |
| <u>Forum Fees</u> | = \$ | <u>450.00</u> |
| <u>Total Fees</u> | = \$ | <u>700.00</u> |
| <u>Less payments</u> | = \$ | <u>1,250.00</u> |
| Refund Due to Claimant | = \$ | 550.00 |

2. Morgan Stanley Dean Witter, Inc. is solely liable for:

| | | |
|-------------------------------------|------|-----------------|
| <u>Member Fees</u> | = \$ | <u>4,450.00</u> |
| <u>Total Fees</u> | = \$ | <u>4,450.00</u> |
| <u>Less payments</u> | = \$ | <u>1,500.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 2,950.00 |


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

ARBITRATOR

Clarence Smith, Jr., Esq. * Sole Public Arbitrator

Arbitrator's Signature

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, which is my award.



Clarence Smith, Jr., Esq.

1-19-06

Signature Date

JANUARY 24, 2006

Date of Service (For NASD Dispute Resolution use only)