

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

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In the Matter of the Arbitration Between:

Sidney H. Goodman, individually and as Trustee of the Sidney H. Goodman Revocable 1991 Inter Vivos Trust and Doris B. Francis, individually and as Trustee of the Doris B. Francis Living Trust, Claimants v. Leslie C. Stipek and Stipek Securities LLC, Respondents

Case Number: 05-01850

Hearing Site: Los Angeles, California

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

**REPRESENTATION OF PARTIES**

For Claimants:

Thomas E. Shuck, Esq.  
Ivanjack, Shuck & Milstead, LLP  
Los Angeles, California

For Respondents:

Robert J. McKennon, Esq.  
Barger & Wolen LLP  
Irvine, California

**CASE INFORMATION**

Statement of Claim filed: April 7, 2005

Claimants' Joint Uniform Submission Agreement signed: April 2, 2005

Joint Statement of Answer filed by Respondents: June 8, 2005

Respondent Leslie C. Stipek's Uniform Submission Agreement signed: June 9, 2005

Respondent Stipek Securities, LLC's Uniform Submission Agreement signed: June 24, 2005

**CASE SUMMARY**

Claimants alleged breach of fiduciary duty, unsuitability, fraud, and negligence involving the purchase of unspecified stocks, mutual funds, annuities, and investments in Lifetime Capital Viatical.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimants requested \$340,000.00 in compensatory damages, unspecified punitive and exemplary damages, interest at the legal rate, and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety and costs.

**OTHER ISSUES CONSIDERED AND DECIDED**

On April 5, 2005, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On July 25, 2005, Respondents filed a Motion for Leave to File Third-Party Claim for Expungement. On September 12, 2005, Claimants filed an Opposition to Respondents Motion and Claim for Expungement. On September 16, 2005, Respondents filed a Reply Brief in Support of Motion and Claim for Expungement. On September 26, 2005, the Panel and parties held a telephonic pre-hearing conference to hear oral argument on Respondents' motion. On February 26, 2006, the Panel issued an Order stating that "[Respondents'] Motion for Leave to File Third-Party Claim is denied. Motion for Leave to file a claim for Expungement is granted, subject to Respondents filing an appropriate pleading." On January 4, 2006, Respondents filed a request for expungement of all information pertaining to this matter from the Central Registration Depository.

On March 14, 2006, Respondents filed a Motion in Limine to Exclude Testimony and/or Evidence Pertaining to Investments of Other People Who Have No Relationship to this Lawsuit. On March 14, 2006, Claimants filed an opposition to the motion. After due deliberation, the Panel ruled at the hearing to grant the motion in part and deny the motion in part.

On March 15, 2006, Respondents filed a Motion to Exclude Testimony and/or Evidence Pertaining to Goodman's Investment in Nexstar. On March 16, 2006, Claimants filed an opposition to the motion. On March 17, 2006, Respondents filed a reply in support of their motion. After due deliberation, the Panel ruled at the hearing to grant the motion.

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**

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Leslie C. Stipek and Stipek Securities LLC are jointly and severally liable to and shall pay Claimant Sidney H. Goodman, individually and as Trustee of the Sidney H. Goodman Revocable 1991 Inter Vivos Trust, the sum of \$228,000.00 in compensatory damages.
- 2) Respondents Leslie C. Stipek and Stipek Securities LLC are jointly and severally liable to and shall pay Claimant Doris B. Francis, individually and as Trustee of the Doris B. Francis Living Trust, the sum of \$15,000.00 in compensatory damages.
- 3) Respondents Leslie C. Stipek and Stipek Securities LLC's request for expungement is denied.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted, including Claimants' request for punitive and exemplary damages, is denied.

### **FEES**

Pursuant to the *NASD Code of Arbitration Procedure* (Code), the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Stipek Securities LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

**Forum Fees and Assessments**

The Panel 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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Decisions on discovery-related motions by single arbitrator @ \$200.00 = \$ 600.00  
Claimant submitted two (2) discovery-related motions decided on the papers  
Respondent submitted one (1) discovery-related motion decided on the papers

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 2,250.00  
Pre-hearing conferences: July 26, 2005 1 session  
September 26, 2005 1 session

Seven (7) Hearing sessions @ \$1,125.00/session = \$ 7,875.00  
Hearings: March 21, 2006 2 sessions  
March 22 2006 2 sessions  
March 23 2006 3 sessions

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**Total Forum Fees = \$10,725.00**

1. The Panel assessed \$1,425.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$9,300.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Respondents requested photocopy service of 25 pages @ \$.50 per page = \$ 12.50

**Fee Summary**

1. Claimants Sidney H. Goodman, individually and as Trustee of the Sidney H. Goodman Revocable 1991 Inter Vivos Trust, and Doris B. Francis, individually and as Trustee of the Doris B. Francis Living Trust, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,425.00
Total Fees	= \$ 1,725.00
Less payments	= \$ (1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 300.00</b>

2. Respondent Stipek Securities, LLC is charged with the following fees and costs:

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

3. Respondents Leslie C. Stipek and Stipek Securities LLC are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 9,300.00
Administrative Cost	= \$ 12.50
<u>Less payments</u>	<u>= \$ 0.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 9,312.50</b>

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

ARBITRATION PANEL

Ed Gartenberg	-	Public Arbitrator, Presiding Chair
James H. Frank	-	Public Arbitrator
George Frederick Garriss	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Ed Gartenberg  
Chair, Public Arbitrator

3/30/06  
Signature Date

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James H. Frank  
Public Arbitrator

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Signature Date

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George Frederick Garriss  
Non-Public Arbitrator

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Signature Date

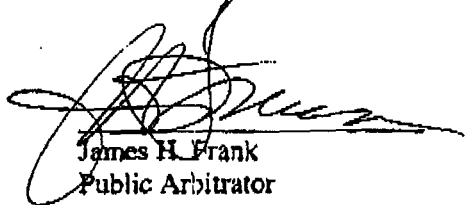
3/30/06  
Date of Service

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James H. Frank	-	Public Arbitrator
George Frederick Garriss	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Ed Gartenberg  
Chair, Public Arbitrator

  
James H. Frank  
Public Arbitrator

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Signature Date

MAR 30 2006

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Signature Date

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George Frederick Garriss  
Non-Public Arbitrator

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Signature Date

3/30/06  
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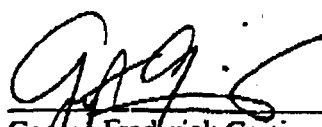
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Chair, Public Arbitrator

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Signature Date

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James H. Frank  
Public Arbitrator

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Signature Date

  
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George Frederick Garriss  
Non-Public Arbitrator

3-30-2006  
Signature Date

\_\_\_\_\_  
Date of Service