

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimants/Counter-Respondents

Dianna J. Ives and Joyce A. Sheridan

v.

Case Number: 05-02175  
Hearing Site: Detroit, Michigan

Respondent/Counter-Claimant

Susan Bondy

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**NATURE OF DISPUTE**

Customers v. Non-Member  
Non-Member v. Customers

**REPRESENTATION OF PARTIES**

Dianna J. Ives and Joyce A. Sheridan ("Claimants") were represented by Ralph R. Safford, Esq. and Mary Ann Hart, Esq., Safford & Baker, PLLC, Bloomfield Hills, Michigan.

Susan Bondy ("Respondent") was represented by John R. Muth, Esq., and Dwight K. Hamilton, Esq., Miller Johnson, Grand Rapids, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 22, 2005. The Submission Agreement of Claimants was signed by Dianna J. Ives and Joyce A. Sheridan on or about April 15, 2005.

The Statement of Answer and Statement of Counterclaim was filed by Respondent on or about June 16, 2005. The Submission Agreement of Respondent was signed on or about May 27, 2005.

Claimants filed an Answer to Counterclaim on or about July 5, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: suitability, negligence, breach of contract, breach of fiduciary duty, and violations of securities laws. The causes of action related to Claimants' allegations regarding the recommendation and purchase of unspecified equities or equity based mutual funds which did not comport with Claimants' investment goal of capital preservation.

Unless specifically admitted in her Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the prudent investor and/or prudent expert rule; Claimants could have terminated Respondent's financial services at any time; Claimants' claims are barred by NASD's limitations period; and Claimants' claims are barred by waiver and/or by the doctrine of estoppel.

Respondent asserted a Counterclaim for breach of contract for failing to hold Respondent harmless.

Unless specifically admitted in their Answer to Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted defenses including the following: the Management Agreement does not clearly and unequivocally provide for indemnification of Respondent's own negligence and Respondent failed to exercise good faith.

### **RELIEF REQUESTED**

Claimants requested an award of compensatory damages of \$101,000.00, plus interest, punitive damages of at least \$100,000.00, costs, attorneys' fees and any other relief the panel deemed appropriate.

Respondent denied that Claimants are entitled to any damages and asserted that Claimants are not entitled to recover punitive damages under Federal or Michigan law. In her Counterclaim, Respondent requested an award of her unspecified costs and expenses, including attorneys' fees, incurred as a result of this arbitration.

### **OTHER ISSUES CONSIDERED & DECIDED**

This matter is before NASD Dispute Resolution pursuant to a Stipulated Order of Dismissal entered by in the United States District Court, Western District of Michigan, Southern Michigan.

At the close of Claimant's case-in-chief, Respondent moved for a directed verdict. The Panel denied the motion without prejudice on the record at the hearing.

The parties submitted post-hearing submissions on or about February 27, 2006.

Claimant filed a Motion to Introduce Article on or about March 6, 2006. On March 7, 2006, Respondent requested that she be permitted to respond on March 8, 2006. After deliberation, the panel granted Claimants' Motion and accepted the article into evidence.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all are denied and dismissed with prejudice;
- 2.) Respondent's Counterclaim is denied and dismissed with prejudice;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **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	= \$ 300.00
Counterclaim filing fee	= \$ 250.00

#### **Forum Fees and Assessments**

The Panel has assessed 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,125.00			= \$ 2,250.00
Pre-hearing conferences:	September 9, 2005	1 session	
	February 1, 2006	1 session	
Five (5) Hearing sessions x \$1,125.00			= \$ 5,625.00
Hearing Dates:	February 7, 2006	2 sessions	
	February 8, 2006	2 sessions	
	February 9, 2006	1 session	
<hr/> Total Forum Fees			= \$ 7,875.00

The Arbitration Panel has assessed \$3,937.50 of the forum fees jointly and severally to Dianna J. Ives and Joyce A. Sheridan.

The Arbitration Panel has assessed \$3,937.50 of the forum fees to Susan Bondy.

#### Fee Summary

Claimants, Dianna J. Ives and Joyce A. Sheridan, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 4,237.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

Respondent, Susan Bondy, is liable for:

Counterclaim Filing Fee	= \$ 250.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 4,187.50
Less payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 2,987.50

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

**ARBITRATION PANEL**

Tracy L. Allen, Esq. -- Public Arbitrator, Presiding Chair  
Robert L. Nichols, Sr. - Public Arbitrator  
Frederick L. Mirbach, Jr. - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Tracy L. Allen, Esq.  
Tracy L. Allen, Esq.  
Public Arbitrator, Presiding Chair

03/08/06  
Signature Date

/s/ Robert L. Nichols, Sr.  
Robert L. Nichols, Sr.  
Public Arbitrator

03/08/06  
Signature Date

/s/ Frederick L. Mirbach, Jr.  
Frederick L. Mirbach, Jr.  
Non-Public Arbitrator

03/08/06  
Signature Date

03/08/06  
Date of Service (For NASD office use only)

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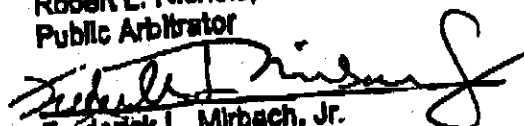
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