

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

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In the Matter of the Arbitration Between:

Alice E. Campbell Estate (Claimant) vs. S.C. Parker & Co., Inc. and John J. Winkelman (Respondents)

Case Number: 05-05163

Hearing Site: Buffalo, New York

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

**REPRESENTATION OF PARTIES**

Claimant Alice E. Campbell Estate, hereinafter referred to as "Claimant": Robert A. Dean, Esq., The Dean Law Firm P.C., Grand Island, NY.

Respondents S.C. Parker & Co., Inc. ("S.C. Parker") and John Winkelman ("Winkelman"), hereinafter collectively referred to as "Respondents": Catherine Grantier Cooley, Esq., HodgsonRuss LLP., Buffalo, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: October 4, 2005.

Claimant signed the Uniform Submission Agreement: December 14, 2005.

Joint Statement of Answer filed by Respondents on or about: February 13, 2006.

S.C. Parker signed the Uniform Submission Agreement: February 13, 2006.

Winkelman signed the Uniform Submission Agreement: February 8, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, negligence, breach of fiduciary duties, and failure to supervise. The causes of action relate to the liquidation of unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$93,154.32, plus interest from May 31, 2002, and such other relief as the interests of justice and equity may require.

Respondents requested dismissal of the Statement of Claim, expungement of their CRD records and costs of this arbitration.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing Respondents made a Motion to Dismiss based on the Statute of Limitations. After due deliberation, the Panel found the Statute of Limitations applicable in part and calculated damages for the period beginning June 30, 2002.

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.

### **AWARD**

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

1. Respondents S.C. Parker & Co., Inc. and John J. Winkelman are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$48,405.00.
2. Respondents' request for expungement is denied
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	= \$ 225.00
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#### **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, S.C. Parker & Co., Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

#### **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 arbitrators, including a pre-hearing conference with the arbitrators that last four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing session with Panel @ \$750.00/session		= \$1,500.00
Pre-hearing conferences:	May 31, 2006	1 session
	October 24, 2006	1 session

Six (6) Hearing sessions @ \$750.00/session		= \$ 4,500.00
Hearing Dates:	October 11, 2006	2 sessions
	October 12, 2006	2 sessions
	December 15, 2006	2 sessions

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Total Forum Fees		= \$6,000.00
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1. The Panel has assessed \$3,000.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,000.00 of the forum fees jointly and severally to Respondents.

### Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,225.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

2. Respondent S.C. Parker & Co., Inc. is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

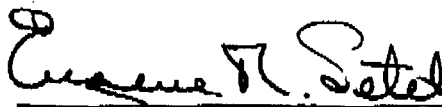
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

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

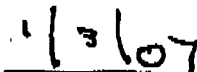
**ARBITRATION PANEL**

Eugene M. Setel, J.D.	-	Public Arbitrator, Presiding Chairperson
F. Harris Nichols, Esq.	-	Public Arbitrator
James A. Joseph	-	Non-Public Arbitrator

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.



Eugene M. Setel, J.D.  
Public Arbitrator, Presiding Chairperson



Signature Date

\_\_\_\_\_  
F. Harris Nichols, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
James A. Joseph  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

January 4, 2007  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

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Signature Date

F. Harris Nichols  
F. Harris Nichols, Esq.  
Public Arbitrator

January 3, 2007  
Signature Date

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James A. Joseph  
Non-Public Arbitrator

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Signature Date

January 4, 2007

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Non-Public Arbitrator

1/3/07  
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Signature Date

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