

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Timothy J. Cecchin, Claimant v. Patricia Tierney, Respondent

Case Number: 05-06326

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person v. Customer

REPRESENTATION OF PARTIES

For Claimant:

Timothy N. Will, Esq.
Albert & Will, LLP
Torrance, California

For Respondent:

Michael Harrington, Esq.
Law Offices of James Jay Seltzer
Emeryville, California

CASE INFORMATION

Joint Statement of Claim filed: November 30, 2005

Claimant's Uniform Submission Agreement signed: November 7, 2005

CASE SUMMARY

Claimant and Respondent jointly submitted the Statement of Claim in this matter seeking the entry of a Stipulated Award relating to prior NASD Arbitration Case 04-03041 *Patricia Phyllis Tierney vs. Timothy John Cecchin and H & R Block Financial Advisors, Inc.* NASD Case 04-03041 was closed prior to the entry of a Stipulated Award in that matter.

RELIEF REQUESTED

Claimant and Respondent jointly requested the entry of a Stipulated Award wherein the Panel (1) recommends expungement of all references to *NASD Case 04-03041 Patricia Phyllis Tierney vs. Timothy John Cecchin and H & R Block Financial Advisors, Inc.* from Timothy J. Cecchin's CRD records and (2) dismisses all Respondents in NASD Case 04-03041 with prejudice. Claimant and Respondent also requested that the expungement rule in effect prior to April 12, 2004, be applied.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Patricia Tierney did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and having jointly submitted the claim, and appeared at the telephonic hearing via her counsel, is bound by the determination of the Panel on all issues submitted.

At the Initial Pre-Hearing Conference held on May 1, 2006, the parties and arbitrators agreed to have a telephonic evidentiary hearing, rather than an in-person evidentiary hearing. On June 14, 2006, the parties, as ordered by the Panel, submitted a supplemental brief in support of expungement, including a copy of the settlement agreement reached in connection with NASD Case 04-03041. On July 6, 2006, the Panel conducted a telephonic hearing with the parties. After due deliberation, the Panel decided to apply the expungement standards in effect prior to April 12, 2004 and to issue the requested 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

After considering the parties' stipulated pleadings and oral support presented at the telephonic hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Patricia Phyllis Tierney claims in *NASD Case 04-03041 Patricia Phyllis Tierney vs. Timothy John Cecchin and H & R Block Financial Advisors, Inc.*, are dismissed with prejudice.
- 2) The Panel recommends the expungement of all references to *NASD Case 04-03041 Patricia Phyllis Tierney vs. Timothy John Cecchin and H & R Block Financial Advisors, Inc.*, from Timothy John Cecchin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Timothy John Cecchin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the 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	= \$ 250.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a named associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm H&R Block Financial Advisors, Inc., employed the named associated person at the time of the events giving rise to this dispute and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,200.00
Total Member Fees	= \$ 4,450.00

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion decided 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:

(1) Pre-hearing conference session with the Panel @ \$1,000.00/session	= \$ 1,000.00
Pre-hearing conference: May 1, 2006	1 session

(1) Telephonic hearing session @ \$1,000.00/session	= \$ 1,000.00
Hearing: July 6, 2006	1 session

Total Forum Fees	= \$ 2,000.00
-------------------------	----------------------

1. Claimant agreed to pay the forum fees associated with this Stipulated Award.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 2,000.00
Total Fees	= \$ 2,250.00
Less payments	= \$(1,250.00)
Balance Due NASD Dispute Resolution	= \$ 1,000.00

2. H&R Block Financial Advisors, Inc., is charged with the following fees and costs:


Member Fees	= \$ 4,450.00
Less payments	= \$(4,450.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Joseph M. O'Connor	-	Public Arbitrator, Presiding Chair
Mark R. Harris	-	Public Arbitrator
Herbert L. Brown	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Joseph M. O'Connor
Chair, Public Arbitrator

7-13-06
Signature Date

Mark R. Harris
Public Arbitrator

Signature Date

Herbert L. Brown
Non-Public Arbitrator

Signature Date

7/19/06
Date of Service
(NASD Use Only)


ARBITRATION PANEL

Joseph M. O'Connor	-	Public Arbitrator, Presiding Chair
Mark R. Harris	-	Public Arbitrator
Herbert L. Brown	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Joseph M. O'Connor
Chair, Public Arbitrator

Signature Date



Mark R. Harris
Public Arbitrator

7-12-06

Signature Date

Herbert L. Brown
Non-Public Arbitrator

Signature Date

7/19/06

Date of Service
(NASD Use Only)

ARBITRATION PANEL

Joseph M. O'Connor	-	Public Arbitrator, Presiding Chair
Mark R. Harris	-	Public Arbitrator
Herbert L. Brown	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Joseph M. O'Connor
Chair, Public Arbitrator

Signature Date

Mark R. Harris
Public Arbitrator

Signature Date



Herbert L. Brown
Non-Public Arbitrator

7-11-06
Signature Date

7/19/06
Date of Service
(NASD Use Only)