

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Dr. Frank J. Spino and Mrs. Arline G. Spino JTWRCS
Frank J. Spino, D.D.S., Inc.
Arline Spino, Custodian for Susan L. Spino, UGMA
Arline Spino, Custodian for Thomas J. Spino, UGMA
Aurora Dental Associates, Inc.
Frank J. Spino, D.D.S. Money Purchase Pension Retirement Trust
Frank J. Spino, D.D.S., Inc. Profit Sharing Retirement Trust

91-01997

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
Philip Schultz
Victor Bull
Robert Gunnarson
Adam Schoesler

REPRESENTATION

For Claimants Frank & Arline Spino ("Claimants"): Alfred M. Stanbury, a sole practitioner.

For Respondents Merrill Lynch Pierce Fenner & Smith Inc. ("MLPFS"), Philip Schultz ("Schultz"), Victor Bull ("Bull"), Robert Gunnarson ("Gunnarson") and Adam Schoesler ("Schoesler"): Frank Leonetti, III, of Reminger & Reminger Co., L.P.A.

CASE INFORMATION

Statement of Claim filed: June 24, 1991.

Motion to Preclude Answers, Facts and Defenses of All Respondents Except Bull filed: September 7, 1991.

Response to Respondents' Response to Claimants' Motion to Preclude Answers, Facts and Defenses of All Respondents Except Bull filed: September 12, 1991.
Statement of Reply to Respondents' Statement of Answer filed: September 10, 1991.

Claimants' Memorandum in Opposition to Motion in Limine/Motion to Dismiss Certain Respondents filed: February 3, 1992.

Claimants' Submission Agreement signed on: June 7, 1991.

Joint Statement of Answer filed by Respondents on: there was no date on the document; however, it was received by the NASD on September 4, 1991.

Joint Response to Claimants' Motion to Preclude Answers, Facts and Defenses

AWARD
#91-01997
Page Two

of All Respondents Except Bull filed: September 11, 1991.
Joint Motion in Limine/Motion to Dismiss Certain Respondents filed: February 11, 1992.
Respondent MLPFS's Submission Agreement signed on: October 4, 1991.
Respondent Schultz's Submission Agreement signed on: October 14, 1991.
Respondent Bull's Submission Agreement signed on: December 10, 1991.
Respondent Gunnarson's Submission Agreement signed on: October 9, 1991.
Respondent Schoesler's Submission Agreement signed on: October 11, 1991.

HEARING INFORMATION

Hearing Date/Sessions: February 18, 1992/2 sessions.
Hearing Location: NASD, Cleveland, OH.

CASE SUMMARY

Claimants alleged they never executed a standard options agreement and were not sent one until four days after their Prime Computer ("Prime") had been liquidated when, Claimants alleged, they had already complained to MLPFS about the transactions. Claimants alleged they met with Bull who stated he would help settle the matter involving the Prime transactions; ensure that Schultz would no longer handle their accounts and personally be available for any transactions the Claimants wished to make. Claimants stated that once Schultz was removed as their broker there was not another broker assigned to their accounts, nor did Bull make himself available to aide Claimants in the management of their accounts, nor was anyone at MLPFS available to assist in transferring Claimants' accounts; and that this was done consciously and vindictively.

Claimants alleged Respondents have not attempted to address each allegation in the Statement of Claim and have submitted a general denial.

Respondents denied every allegation of wrongful, improper or actionable conduct; and stated that the alleged difficulty in transferring Claimants' accounts was not a result of improper conduct, nor did they cause losses to the Claimants.

RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$5,257.44; interest; punitive damages equal to at least three times the actual losses incurred; costs; and attorney's fees.

Respondents requested: the arbitrators dismiss all claims in their entirety and costs.

AWARD
#91-01997
Page Three

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

1- Respondents Bull and Gummerson were not present at the hearing; however, their counsel, Mr. Leonetti, stated on the record that he was appearing on their behalf.

AWARD

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

- 1- Claimants' Motion to Preclude Answers, Facts and Defenses of All Respondents Except Bull is denied;
- 2- Respondents' Motion In Limine/Motion to Dismiss Certain Respondents is denied;
- 3- No further proceedings shall be conducted in this matter;
- 4- The claims of the Claimants against Respondents are denied;
- 5- Claimants' claims for punitive damages are denied;
- 6- The parties shall each bear their own expenses, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited and the following Forum Fees are assessed.

2 sessions X \$400.00 = \$800.00 minus hearing session deposit of \$400.00 = net \$400.00 due.

Forum fees Assessed Against:

- 1- Claimants in the amount of \$200.00; however, Claimants shall use their \$400.00 hearing session deposit to offset part of this amount;
- 2- Respondents, jointly and severally, in the amount of \$200.00. However,

AWARD

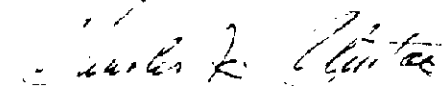
#91-01997

Page Four

in lieu of payment to the NASD, Respondents shall, jointly and severally, reimburse Claimants the sum of \$200.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures



Charles J. Clinton/Public Arbitrator

Date: March 12, 1992

AWARD

#91-01997

Page Four

in lieu of payment to the NASD, Respondents shall, jointly and severally, reimburse Claimants the sum of \$200.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

A handwritten signature in cursive script, appearing to read "Michael A. Sierawski".

Michael A. Sierawski/Industry Arbitrator

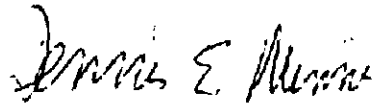
Date: March 12, 1992

AWARD
#91-01997
Page Four

in lieu of payment to the NASD, Respondents shall, jointly and severally, reimburse Claimants the sum of \$200.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

A handwritten signature in cursive script, appearing to read "Dennis E. Mimi".

Dennis E. Mimi/Public Arbitrator

Date: March 12, 1992