

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Mark A. Glass

Case No. 99-00962

Names of Respondents

Legg Mason Wood Walker, Inc.
William H. Langeman

REPRESENTATION OF PARTIES

For Claimant Mark A. Glass, hereinafter referred to as "Claimant": Randall A. Smith, Esq. of the law firm of Smith, Jones & Fawer, L.L.P., New Orleans, Louisiana.

For Respondents Legg Mason Wood Walker, Inc. ("Legg Mason") and William H. Langeman ("Langeman"), hereinafter collectively referred to as "Respondents": Thomas K. Potter, III, Esq. of the law firm of Jones Walker Waechter Poitevent Carrere & Denegre, L.L.P., New Orleans, Louisiana.

CASE INFORMATION

Statement of Claim filed on or about: March 2, 1999.

Letter dated April 7, 1999 from Randall A. Smith, Esq. to NASD Regulation, Inc. filed on or about: April 7, 1999.

Claimant's Reply to Respondents' Answer filed on or about: June 23, 1999.

Claimant signed the Uniform Submission Agreement: April 7, 1999.

Joint Statement of Answer filed by Respondents on or about: June 2, 1999.

Respondent Langeman signed the Uniform Submission Agreement: May 14, 1999.

Respondent Legg Mason signed the Uniform Submission Agreement: May 6, 1999.

CASE SUMMARY

Claimant asserted the following: Claimant opened a discretionary account with Respondents in December 1994 with a net value of \$158,786.73. By December 1997, the net value of the account plummeted to \$18,449.84, resulting in a net loss of \$140,336.39. During that three year period, Respondents earned \$65,989.00 in commissions, the account was turned over, on average, 6.3 times per year, and the combined commission and margin interest charges required that the account yield 25% annually just to break even. Claimant alleged claims against Respondents for breach of fiduciary duty and churning based on gross negligence and

reckless disregard of Claimant's interest.

Respondents denied liability and asserted the following additional defenses, including: failure to state a cause of action, in whole or part; statutes of limitations and/or repose; estoppel; ratification and/or acquiescence; failure to exercise reasonable due diligence in connection with the transactions of which he only now complains; failure to exercise due care in connection with the transactions of which he only now complains thereby contributing to his losses, if any; lack of loss causation; failure to act reasonably to mitigate his damages, if any; Claimant waived any claim for liability based upon negligence; and, Legg Mason maintained a reasonable system of supervision, reasonably enforced and neither knew nor had reason to know of any fraudulent or wrongful acts.

RELIEF REQUESTED

Claimant requested the return of his losses at a rate of return of a well-managed account, plus disgorgement of all commissions, for a total of \$405,632.00, plus interest, costs, expenses, and reasonable attorney's fees.

Respondents requested a dismissal of Claimant's claims with prejudice at his cost, imposing all forum and other reasonable fees upon him.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$58,200.00, pre-judgment interest specifically excluded. Post-judgment interest shall accrue in accordance with Rule 10330(h) of the NASD Code of Arbitration Procedure (the "Code").

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$15,000.00 representing attorneys' fees pursuant to Louisiana Revised Statute 51:701 et seq.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$7,500.00 representing the witness fee.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

No adjournments were requested during these proceedings.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
Pre-hearing conferences: September 27, 1999	1 session
February 8, 2000	1 session

Four Hearing sessions x \$750.00	= <u>\$3,000.00</u>
Hearing Dates: February 24, 2000	2 sessions
February 25, 2000	2 sessions

Total Forum Fees	= \$4,500.00
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The Panel has assessed forum fees of \$2,250.00 to Claimant.

The panel has assessed forum fees of \$2,250.00, jointly and severally, to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$200.00
Forum Fees	= \$2,250.00

Total Fees	= \$2,450.00
<u>Less payments</u>	<u>= \$950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

Respondent Legg Mason be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$2,250.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$2,250.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
James H. Baskett, III
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Leonard J. Sullivan, Esq.
Public Arbitrator

Signature Date

_____/s/_____
Arthur W. Pigott
Industry Arbitrator

Signature Date

March 28, 2000

Date of Service (For NASD office use only)

Total Fees	= \$2,450.00
<u>Less payments</u>	<u>= \$950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

Respondent Legg Mason be and hereby is solely liable for:

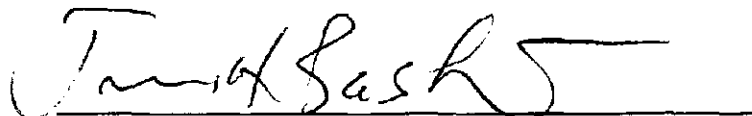
Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$2,250.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$2,250.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures



James H. Baskett, III
Public Arbitrator, Presiding Chair

March 17, 2000

Signature Date

Leonard J. Sullivan, Esq.
Public Arbitrator

Signature Date

Arthur W. Pigott
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Total Fees	= \$2,450.00
<u>Less payments</u>	<u>= \$950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

Respondent Legg Mason be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondents be and hereby are jointly and severally liable for:

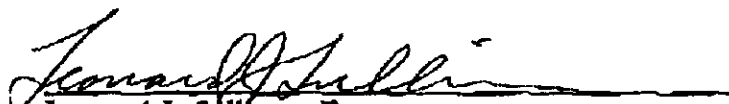
Forum Fees	= \$2,250.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$2,250.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

James H. Baskett, III
Public Arbitrator, Presiding Chair

Signature Date



Leonard J. Sullivan, Esq.
Public Arbitrator

3/14/00

Signature Date

Arthur W. Pigott
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Total Fees	= \$2,450.00
<u>Less payments</u>	<u>= \$950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

Respondent Legg Mason be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$2,250.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$2,250.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

James H. Baskett, III
Public Arbitrator, Presiding Chair

Signature Date

Leonard J. Sullivan, Esq.
Public Arbitrator

Signature Date

Arthur W. Pigott
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)