

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

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In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 00-02576

Stanley D. Legum .

Name of the Respondents

Hearing Site: Norfolk, Virginia

Salomon Smith Barney Inc.,  
and Scott W. McEnnis

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REPRESENTATION OF PARTIES

Claimant Stanley D. Legum, hereinafter referred to as "Claimant", was represented by W. Scott Greco, Esq. and Frederick Greco, Esq., Greco & Greco, P.C., McLean, Virginia.

Respondent Salomon Smith Barney, Inc., hereinafter referred to as "SSB", was represented by Brian F. Amery, Esq. and Kevin DeLoatch, Esq., Bressler, Amery & Ross, New York, New York.

Respondent Scott W. McEnnis, hereinafter referred to as "McEnnis", was represented by Ralph Berman, Esq. and Adrian Zuckerman, Esq., Davidoff & Malito LLP, New York, New York.

CASE INFORMATION

Statement of Claim was filed on June 15, 2000.

Amended Statement of Claim was filed on October 3, 2001.

Claimant signed the Uniform Submission Agreement on June 14, 2000.

Joint Statement of Answer was filed by Respondents SSB and McEnnis on October 6, 2000.

Amended Statement of Answer was filed by Respondent SSB on April 22, 2002.

Amended Statement of Answer and Counterclaim was filed by Respondent McEnnis on April 26, 2002.

Respondent McEnnis filed with NASD Dispute Resolution an undated Uniform Submission Agreement.

Respondent SSB filed with NASD Dispute Resolution an undated Uniform Submission Agreement executed by William A. Hohausser, Senior Vice President and Associate General Counsel.

Claimant's Motion to Amend Statement of Claim was filed on October 3, 2001.

Respondent SSB's Motion to Amend Answer was filed on April 24, 2002.

Claimant's Opposition to Respondent SSB's Motion to Amend Answer was filed on April 26, 2002.

Claimant's Motion for Reconsideration regarding the Panel's Order granting Respondents' leave to file Amended Answers was filed on May 16, 2002.

Respondent SSB's Motion to Dismiss was filed on May 29, 2002.

Respondent McEnnis' Motion to Dismiss was filed on May 31, 2002.

Claimant's Response to Respondents' Motions to Dismiss was filed on June 14, 2002.

Respondent SSB's Reply to Claimant's Response to Respondents' Motions to Dismiss was filed on June 17, 2002.

#### CASE SUMMARY

Claimant asserted the following causes of action, among others: demand for accounting and payment of compensation due pursuant to the accounting; breach of partnership agreement; breach of contract for joint venture and/or breach of contract; breach of fiduciary duty; fraud; age discrimination; and, violation of New York Wage Law. The causes of action relate to the alleged breach of a contract to split commissions enter into between Claimant, Respondents, and a third-party, while Claimant was employed with Respondent SSB.

In their original joint Answer, Respondents admitted that Respondent SSB owed Claimant \$11,400.00 from a joint commission arrangement between Claimant and Respondent McEnnis, but denied the other allegations made in the Statement of Claim.

Unless specifically admitted in his Amended Answer, Respondent McEnnis denied the allegations made in the Statement of Claim and asserted the following defenses: statute of frauds; Claimant's fraud and breach of fiduciary duty claims are in reality breach of contract claims and should be dismissed; punitive damages are not available for breach of contract claims; and, Statute of Limitations.

In his Counterclaim, Respondent McEnnis asserted a cause of action demanding an accounting of the payments made to Claimant from commissions derived from Respondent McEnnis' clients that did not relate to a client introduced to Respondent McEnnis by Claimant.

Unless specifically admitted in his Answer, Respondent SSB denied the allegations made in the Amended Statement of Claim and asserted the following defenses: statute of frauds; Claimant's fraud and breach of fiduciary duty claims are in reality breach of contract claims and should be dismissed; punitive damages are not available for breach of contract claims; Statute of Limitations; failure to exhaust statutory administrative remedies; and, New York Labor Law does not apply to Claimant's claims.

#### RELIEF REQUESTED

Claimant in his Statements of Claim requested:

Compensatory Damages	\$ 5,877,999.00
Punitive Damages	\$ 18,000,000.00
Interest	unspecified
Attorneys' Fees	unspecified

Other Costs unspecified  
Respondent SSB in their Amended Answer request that the Statement of Claim be dismissed in its entirety and that the Respondent SSB be awarded its costs.

Respondent McEnnis in his Amended Answer and Counterclaim requested that the Statement of Claim be dismissed in its entirety, that Respondent McEnnis be awarded reimbursement of all compensation paid to Claimant derived from commissions earned from clients of Respondent McEnnis for whom Claimant provided no services, and that Respondent McEnnis be awarded the costs of this proceeding.

#### OTHER ISSUES CONSIDERED AND DECIDED

On February 22, 2002, the Panel granted Claimant's Motion to Amend the Statement of Claim.

On May 15, 2002, the Panel granted Respondents' Motions to Amend their Answers and granted Respondent McEnnis leave to file a Counterclaim.

On June 5, 2002, the Panel denied Claimant's Motion to Reconsider the Panel's decision regarding Respondents' Motions to Amend their Answers.

At the hearing, Respondent SSB's Motion to Dismiss was denied by the Panel.

At the hearing, Respondent SSB's Motion to Dismiss Part of the Claim based on Statute of Limitations was denied by the Panel.

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. Respondent SSB shall pay Claimant compensatory damages in the amount of \$279,186.00, plus simple interest at a rate of 9% per annum from October 23, 1993 until the date the Award is paid in full;
2. All claims against Respondent McEnnis are denied in their entirety;
3. Respondent McEnnis' Counterclaims are denied in their entirety;
4. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied

in its entirety.

### 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	= \$ 600.00
Counterclaim filing fee	= \$ 250.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent SSB is a party.

Member surcharge	= \$ 3,000.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,600.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 26-28, 2002 and April 24-26, 2002, adjournment by Respondent McEnnis.	= \$ 1,200.00
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#### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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:

One (1) Pre-hearing session with Panel @ \$ 1,200.00	= \$ 1,200.00
Pre-hearing conference: April 30, 2001 1 session	
Sixteen (16) Hearing sessions @ \$ 1,200.00	= \$19,200.00
Hearing Dates: June 25, 2002 2 sessions	
June 26, 2002 2 sessions	
June 27, 2002 2 sessions	
July 23, 2002 2 sessions	
July 24, 2002 2 sessions	
July 25, 2002 2 sessions	
October 22, 2002 2 sessions	
<u>October 23, 2002 2 sessions</u>	
Total Forum Fees	= \$20,400.00

1. The Panel has assessed \$10,200.00 of the forum fees to Claimant.
2. The Panel has assessed \$10,200.00 of the forum fees to Respondent.

FEE SUMMARY

1. Claimant is assessed the following fees:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$10,200.00</u>
Total Fees	= \$10,800.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 9,000.00

2. Respondent SSB is assessed the following fees:

Member Fees	= \$ 8,600.00
<u>Forum Fees</u>	<u>= \$10,200.00</u>
Total Fees	= \$18,800.00
<u>Less payments</u>	<u>= \$ 8,600.00</u>
Balance Due NASD Dispute Resolution	= \$10,200.00

3. Respondent McEnnis is assessed the following fees:

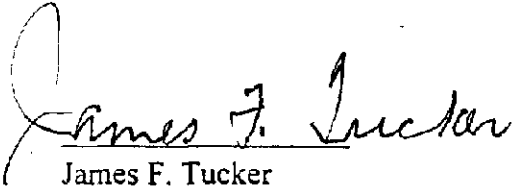
Filing Fee	= \$ 250.00
<u>Adjournment Fee</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 1,450.00
<u>Less payments</u>	<u>= \$ 2,450.00</u>
Refund Owed Respondent from NASD Dispute Resolution	= \$ 1,000.00

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

ARBITRATION PANEL

James F. Tucker	-	Public Arbitrator, Presiding Chairperson
Stuart H. Dunn, Esq.	-	Public Arbitrator, Panelist
Walter M. Jones	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



James F. Tucker  
Public Arbitrator, Presiding Chairperson

November 26, 2002  
Signature Date

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Stuart H. Dunn, Esq.  
Public Arbitrator, Panelist

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Signature Date

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Walter M. Jones  
Non-Public Arbitrator, Panelist

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Signature Date

December 3, 2002  
Date of Service (For NASD Dispute Resolution office use only)

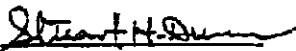
Concurring Arbitrators' Signatures

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James F. Tucker  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
Stuart H. Dunn, Esq.  
Public Arbitrator, Panelist

11/26/02  
Signature Date

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Walter M. Jones  
Non-Public Arbitrator, Panelist

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Signature Date

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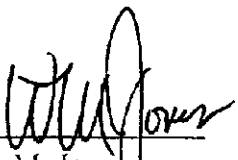
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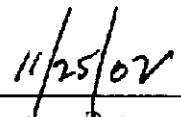
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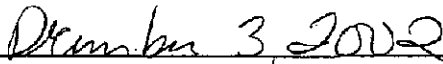
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