

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-04168

Myers Family Trust U/A/D 9/17/93
The Nest, Inc. Money Purchase Pension Plan
Nancy Stafford IRA
Nancy Stafford-Myers
Larry Myers

Name of the Respondent

Hearing Site: Boca Raton, Florida

Janney Montgomery Scott LLC

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Myers Family Trust U/A/D 9/17/93 ("MFT"), The Nest, Inc. Money Purchase Pension Plan ("TNIMPP"), Nancy Stafford IRA ("Stafford"), Nancy Stafford-Myers ("NSM") and Larry Myers ("LM"), hereinafter referred to as "Claimants": Robert Wayne Pearce, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida.

For Janney Montgomery Scott LLC ("JMS"), hereinafter referred to as "Respondent": Paula Shaffner, Saul Ewing LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2003.

Claimants signed the Uniform Submission Agreement: June 6, 2003.

Statement of Answer filed by Respondent on or about: October 2, 2003.

Respondent signed the Uniform Submission Agreement: July 18, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) common law fraud and negligent misrepresentation; 3) negligence; and 4) breach of contract. The causes of action relate to purchases of shares in Platinet Communications, Inc., other unspecified stocks and investments in JMS Wrap Fee accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages of \$500,000.00, plus pre-judgment interest at the

legal rate, punitive damages, the costs of this proceeding and such other relief as is deemed just and proper. At the evidentiary hearing, Claimants made an ore tenus request that the arbitration panel determine that Claimants are entitled to attorney's fees pursuant to Florida Statutes, Section 517.301 as determined by a court of competent jurisdiction.

Respondent requested that all claims against it be dismissed and that the costs of this proceeding, including attorney's fees, be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

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

1. Respondent is liable and shall pay to Claimants the sum of \$247,000.00 in compensatory damages, plus interest at the rate of six percent per annum from June 6, 2003 until July 16, 2004. Damages are awarded based upon the claims of breach of fiduciary duty, negligent representation, negligence and breach of contract.
2. Respondent is liable and shall pay to Claimants the sum of \$26,800.00 representing reimbursement of expert witness fees previously paid by Claimants.
3. Claimants are the prevailing party under Florida Statutes, Section 517.301 and are entitled to recover their attorney's fees upon the confirmation of this arbitration award before a court of competent jurisdiction.
4. Any and all claims for relief not specifically addressed herein, including Claimants' claims for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 300.00
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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, Respondent JMS is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

No adjournments were granted during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: May 28, 2004	1 session
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: December 8, 2003	1 session
Ten (10) Hearing sessions @ \$1,125.00	= \$11,250.00
Hearing Dates: July 12, 2004	2 sessions
July 13, 2004	2 sessions
July 14, 2004	2 sessions
July 15, 2004	2 sessions
July 16, 2004	2 sessions
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Total Forum Fees	= \$12,825.00

The Panel has assessed \$6,412.50 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$6,412.50 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative fees were incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 6,412.50
<hr/> Total Fees	<hr/> = \$ 6,712.50
Less payments	= \$ 1,575.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 5,137.50

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 6,412.50
<hr/> Total Fees	<hr/> = \$11,612.50
Less payments	= \$ 5,200.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 6,412.50

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

ARBITRATION PANEL

<i>Michael R. Emery, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Stuart M. Rapee, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Ralph H. Emer</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Michael R. Emery, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Stuart M. Rapee, Esq.
Public Arbitrator

Signature Date

/s/
Ralph H. Emer
Non-Public Arbitrator

Signature Date

July 26, 2004
Date of Service (For NASD Dispute Resolution office use only)

No administrative fees were incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 6,412.50</u>
Total Fees	= \$ 6,712.50
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,137.50

Respondent is solely liable for:

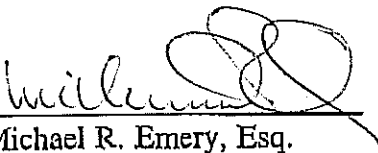
Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 6,412.50</u>
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- Michael R. Emery, Esq.* - *Public Arbitrator, Presiding Chairperson*
- Stuart M. Rapee, Esq.* - *Public Arbitrator*
- Ralph H. Emer* - *Non-Public Arbitrator*

Concurring Arbitrators' Signatures



Michael R. Emery, Esq.
Public Arbitrator, Presiding Chairperson

7-23-04
Signature Date

Stuart M. Rapee, Esq.
Public Arbitrator

Signature Date

No administrative fees were incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
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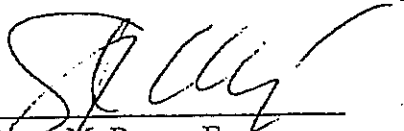
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ARBITRATION PANEL

<i>Michael R. Emery, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Stuart M. Rapee, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Ralph H. Emer</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

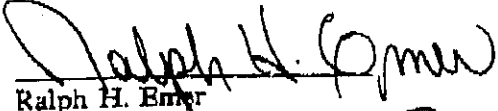
Michael R. Emery, Esq.
Public Arbitrator, Presiding Chairperson



Stuart M. Rapee, Esq.
Public Arbitrator

Signature Date

25 July 04
Signature Date


Ralph H. Emer
Non-Public Arbitrator

07/24/04
Signature Date

Date of Service (For NASD Dispute Resolution office use only)