

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimants
Alan Jacobson
Richard M. Schwartz

Case Number: 11-02261

vs.

Respondent
Morgan Stanley Smith Barney

Hearing Site: New York, New York

Nature of the Dispute: Associated Persons vs. Member

REPRESENTATION OF PARTIES

For Claimants Alan Jacobson ("Jacobson") and Richard M. Schwartz ("Schwartz"), hereinafter collectively referred to as "Respondents": Raquel Terrigno, Esq., and Barry Lax, Esq., Lax & Neville, LLP, New York, New York.

For Respondent Morgan Stanley Smith Barney ("Respondent"): Joseph E. Gehring, Jr., Esq., Gehring & Satriale LLC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2011.
Jacobson signed the Submission Agreement: May 9, 2011.
Schwartz signed the Submission Agreement: May 9, 2011.

Statement of Answer filed by Respondent on or about: August 2, 2011.
Respondent signed the Submission Agreement: July 29, 2011.

CASE SUMMARY

Claimants asserted the following causes of action: breach of express and implied contract, unjust enrichment, restitution, quantum meruit, and violation of New York Labor Law.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in the amount of \$263,219.00, interest, attorneys' fees, costs, unspecified other relief, and injunctive relief.

Respondent requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

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 is liable for and shall pay to Jacobson compensatory damages in the amount of \$131,609.50 plus interest at the rate of 9% per annum accruing from October 5, 2010 until the award is paid in its entirety.
2. Respondent is liable for and shall pay to Schwartz compensatory damages in the amount of \$131,609.50 plus interest at the rate of 9% per annum accruing from October 5, 2010 until the award is paid in its entirety.
3. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing fee

= \$ 1,425.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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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, as a party, Morgan Stanley Smith Barney is assessed the following:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session 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/session	= \$ 450.00
Pre-hearing conference: June 5, 2012 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: November 17, 2011 1 session	
Four (4) Hearing sessions @ \$1,125.00/session	= \$4,500.00
Hearing Date: August 7, 2012 2 sessions	
August 8, 2012 2 sessions	
Total Hearing Session Fees	= \$6,075.00

The Panel has assessed \$6,075.00 of the hearing session fees to Respondent.

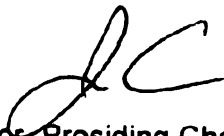
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

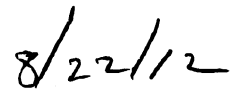
ARBITRATION PANEL

Ira S. Cure	-	Public Arbitrator, Presiding Chairperson
Terrance J. Nolan	-	Public Arbitrator
Peter M. Pfau	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures

Ira S. Cure 
Public Arbitrator, Presiding Chairperson


Signature Date

Terrance J. Nolan
Public Arbitrator

Signature Date

Peter M. Pfau
Non-Public Arbitrator

Signature Date

August 23, 2012
Date of Service (For FINRA Dispute Resolution office use only)

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Ira S. Cure	-	Public Arbitrator, Presiding Chairperson
Terrance J. Nolan	-	Public Arbitrator
Peter M. Pfau	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

Ira S. Cure
Public Arbitrator, Presiding Chairperson

Signature Date

Terrance J. Nolan
Public Arbitrator

Signature Date



Peter M. Pfau
Non-Public Arbitrator

August 22, 2012
Signature Date

August 23, 2012

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