
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Charles M. Baxter

Case Number: 01-07096

Names of the Respondents

Donaldson, Lufkin & Jenrette Securities Corporation
Robert Guerin

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Charles M. Baxter, hereinafter referred to as "Claimant": Allan J. Fedor, Esq., Fedor & Fedor, Largo, Florida.

For Respondent Donaldson, Lufkin & Jenrette Securities Corporation ("DLJ"): David Campbell, Esq., Bressler, Amery & Ross, New York, New York and Keith Olin, Esq. Morgan, Lewis & Bockius LLP, Miami, Florida.

For Respondent Robert Guerin ("Guerin"): Robert L. Herskovits, Esq., Bachner & Herskovits, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: December 19, 2001.

Claimant signed the Uniform Submission Agreement: June 27, 2001.

Statement of Answer filed by Respondent DLJ on or about: March 28, 2002.

Statement of Answer filed by Respondent Guerin on or about: April 12, 2002.

Respondent DLJ signed the Uniform Submission Agreement: April 16, 2002.

Respondent Guerin signed the Uniform Submission Agreement: April 19, 2002.

Motion to Dismiss filed by Respondent DLJ on or about: December 5, 2002.

Second Motion to Dismiss filed by Respondent DLJ on or about: January 10, 2003.

Letter Brief Opposing DLJ's Motions to Dismiss filed by Claimant on or about: February 4, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: 1) negligence and mismanagement; 2) fraud and deception; 3) omissions; 4) breach of fiduciary duty; and, 5) violation of Fla. Stat. 517.301 and 517.07. The causes of action relate to a \$100,000.00 promissory note payable to Claimant from Respondent Guerin and the purchase of 10,000 shares of World Commerce Online stock for Claimant's account.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages, including legal interest, in the amount of \$240,000.00, costs, expenses and disbursements, reasonable attorney's fees pursuant to Fla. Stat.517.211, filing and forum fees, punitive damages and for such other relief as the Panel deemed just and proper.

Respondent DLJ requested that the Statement of Claim be dismissed, with prejudice, in its entirety, and that it be awarded its costs and other and further relief as the Panel deemed just and proper.

Respondent Guerin requested that the Statement of Claim be dismissed in its entirety, forum fees to be assessed against Claimant, an order expunging all references to this matter from Respondent's Form U-4 maintained by the NASD Central Registration Depository (the "CRD") and other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 9, 2003, the Panel issued an Order that denied Respondent DLJ's Motion to Dismiss. However, the Panel deferred ruling on Respondent DLJ's Second Motion to Dismiss until the commencement of the final hearings for this matter.

At the beginning of the final hearings for this matter, Respondent DLJ reasserted its motion to dismiss the claim against them as to its liability in regard to the loan Claimant made to Respondent Guerin and the claim for suitability. The Panel granted Respondent DLJ's motion to dismiss with respect to its liability as to the loan Claimant made to Respondent Guerin and denied the motion to dismiss the claim for suitability.

During the final hearing, Respondent Guerin made a motion to the Panel to dismiss Claimant's claim regarding the loan made to him by Claimant. The Panel granted this motion, without prejudice.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

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

Respondents are found not liable on all of Claimant's claims.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive damages, attorney's fees pursuant to Fla. Stat. 517.211 and any claims for relief pursuant to Fla. Stats. 517.301 and 517.07, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

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, DLJ is a party to this dispute and was a member of the NASD at the time the following fees were assessed:

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

No requests for adjournments were filed in this matter for which fees were assessed.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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: December 9, 2002 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00 = \$2,250.00
Pre-hearing conferences: July 17, 2002 1 session
May 5, 2003 1 session

Eight (8) Hearing sessions with the Panel @ \$1,125.00 = \$9,000.00
Hearing Dates: February 25, 2003 2 sessions
October 29, 2003 2 sessions
October 30, 2003 2 sessions
October 31, 2003 2 sessions

Total Forum Fees = \$11,700.00

The Panel has assessed \$8,775.00 of the forum fees to Claimant.
The Panel has assessed \$1,462.50 of the forum fees to Respondent DLJ.
The Panel has assessed \$1,462.50 of the forum fees to Respondent Guerin.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 8,775.00
<u>Total Fees</u>	= \$ 9,075.00
<u>Less payments</u>	= \$ 1,425.00
<u>Balance Due NASD</u>	= \$ 7,650.00

Respondent DLJ is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 1,462.50
<u>Total Fees</u>	= \$ 6,662.50
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD</u>	= \$ 1,462.50

Respondent Guerin is solely liable for:

<u>Forum Fees</u>	= \$1,462.50
<u>Total Fees</u>	= \$1,462.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD</u>	= \$1,462.50

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

ARBITRATION PANEL

Henry A. Tenenbaum, Ph.D	-	Public Arbitrator, Presiding Chairperson
Donald R. Ormrod, Sr.	-	Public Arbitrator
Delino R. Heim	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Henry A. Tenenbaum, Ph.D
Public Arbitrator, Presiding Chairperson

11/27/03
Signature Date

/s/
Donald R. Ormrod, Sr.
Public Arbitrator

11/26/03
Signature Date

/s/
Delino R. Heim
Non-Public Arbitrator

11/26/03
Signature Date

12/01/03
Date of Service (For NASD Dispute Resolution office use only)

FROM : HENRY TENENBAUM

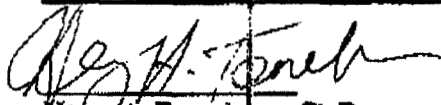
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NASD Dispute Resolution
Arbitration No. 01-07096
Award Page 5

Concurring Arbitrators' Signatures



Henry A. Tenenbaum, Ph.D
Public Arbitrator, Presiding Chairperson

11-27-03

Signature Date

Donald R. Ormsco, Sr.
Public Arbitrator

Signature Date

Delino R. Heim
Non-Public Arbitrator

Signature Date

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

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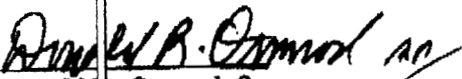
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NASD Dispute Resolution
Arbitration No. 01-07096
Award Page 5

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Public Arbitrator

Nov. 26, 09
Signature Date

Delino E. Heim
Non-Public Arbitrator

Signature Date

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16

NASD Dispute Resolution
Arbitration No. 01-07096
Award Page 5

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