

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Phillip A. and Clemencia A. Jackson

Case No. 00-00117

Name of Respondents

Edward J. McCune
James S. Borelli
E. M. Holdings Corporation
Lorette Farris
Fairchild Financial Group, Inc.

Hearing Site: Washington, D.C.

REPRESENTATION OF PARTIES

Claimants, Phillip A. and Clemencia A. Jackson, hereinafter collectively referred to as "Claimants": Wendu Mekbib, Esq., Law Offices of Wendu Mekbib, Vienna, VA.

Respondents Edward J. McCune ("McCune"), James S. Borelli ("Borelli"), Lorette Farris ("Farris"), and E.M. Holdings Corporation ("E.M. Holdings"), hereinafter collectively referred to as "Respondents": Mark F. Raymond, Esq., Tew Cardenas Rebak Kellogg Lehman et. al., Miami, FL.

Respondent Fairchild Financial Group, Inc. did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on or about: January 10, 2000.

Claimants signed the Uniform Submission Agreement: January 10, 2000.

Statement of Answer filed by Respondents McCune and Farris on: April 25, 2000.

Statement of Answer filed by Respondent Borelli on: June 19, 2000.

Respondent E.M. Holdings did not file a Statement of Answer.

Respondents did not file a signed Uniform Submission Agreement.

Respondents McCune and Farris filed a Motion to Dismiss on April 25, 2000.

Claimants filed a Preliminary Response to the Motion to Dismiss on August 16, 2000.

Claimants filed a Final Response to the Motion to Dismiss on November 9, 2000.

Claimants filed a Motion to Preclude the "Statement of Answer of Edward J. McCune & Lorette Farris to the Statement of Claim and Motion to Dismiss" and to Bar the Respondents from Presenting Any Matter, Arguments, Or Defenses at the Hearing on August 16, 2000.

Claimants filed a Motion to Preclude the "Statement of Answer" of Respondent James S. Borelli and to Bar the Respondent from Presenting Any Matter, Arguments or Defenses at the Hearing on August 16, 2001.

Respondents McCune and Farris filed a Response to Claimants' Motion to Preclude on September 12, 2000.

Respondent Borelli filed a Response to Claimants' Motion to Preclude on September 13, 2000.

Respondent E.M. Holdings filed a Motion to Dismiss on November 15, 2000.

Claimants filed a Response to the Motion to Dismiss on January 29, 2001.

Respondent E.M. Holdings filed a Motion to Reconsider the Motion to Dismiss on February 22, 2001.

Claimants filed a Response to the Motion to Reconsider on February 20, 2001, and filed a Supplement to their Response on February 22, 2001.

Respondent E.M. Holdings filed a Surreply regarding their Motion for Reconsideration on February 23, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: manipulative, deceptive and fraudulent securities transactions prohibited by specific mandates of the 1934 Securities Act Rules; unsuitability; breach of contract; breach of fiduciary duty; churning; failure to supervise or otherwise collude with Respondent Borelli in his unlawful actions and omissions; common law fraud by misrepresentation of material facts; common law fraud by concealment of material facts; and, intentional infliction of severe emotional distress. The action involved the trading of common stock including Netscape (NCSP), America Online (AOL), Cisco, and Interiors, Inc. (INTXA).

Unless specifically admitted in its Answer, Respondents McCune and Farris denied the allegations made in the Statement of Claim and asserted, among others, the following defenses: that no cause of action exists; that Respondents acted in good faith; that Claimants were responsible for any losses suffered due to contributory negligence and comparative fault; that Claimants assumed any risk involved; that Claimants' claim is barred by the doctrines of estoppel, waiver, laches, and ratification; that Claimants failed to mitigate damages; that any losses are attributable to independent market conditions; and, that no fiduciary duty was breached.

Unless specifically admitted in its Answer, Respondent Borelli denied the allegations made in the Statement of Claim and asserted, among others, the following defenses: that Claimants failed to state a claim upon which relief can be granted; that any losses suffered by Claimants were the result of market losses; that Claimants failed to use due diligence with respect to the transactions and/or acts complained of; that any losses were

proximately caused by Claimants' negligence or conduct; that any damages suffered were caused or contributed to by persons, conditions, or events beyond Respondent's control; that Claimants authorized and directed the execution of all transactions in the accounts; that Claimants failed to state a claim of unsuitability; and, ratification.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 1,458,426.80
Punitive Damages	\$ 1,458,426.80
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents asked that the matter be dismissed in its entirety and that all reasonable fees and costs incurred be assessed against Claimants.

Mr. Borelli further asked that the allegations be ordered expunged from his CRD, and any other such relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel denied Respondents McCune and Farris' Motion to Dismiss that was filed with their Statement of Answer.

The Panel denied Claimants' Motion to Preclude the "Statement of Answer of Edward J. McCune & Lorette Farris to the Statement of Claim and Motion to Dismiss" and to Bar the Respondents From Presenting Any Matter, Arguments, Or Defenses at the Hearing.

The Panel denied Claimant's Motion to Preclude the "Statement of Answer" of Respondent James S. Borelli and to Bar the Respondent From Presenting Any Matter, Arguments, Or Defenses at the Hearing.

The Panel denied Respondent E.M. Holdings' Motion to Dismiss.

The Panel denied Respondent E.M. Holding's Motion for Reconsideration of the Motion to Dismiss.

At the hearing, Claimants amended their Statement of Claim to indicate that the 1998 sale of Netscape (NSCP) stock was an unauthorized trade.

At the hearing, Claimants amended their Statement of Claim to include a claim that the broker commissions exceeded and violated the "5%" rule.

At the hearing, Respondents presented a Motion to Dismiss at the close of Claimants' case in chief, which was denied

Respondents McCune, Farris, Borelli, and E.M. Holdings did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim and appeared at the hearing, are bound by the determination of the Panel on all issues submitted.

Respondent Fairchild Financial Group, Inc. did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration, but is required to submit to arbitration pursuant to the Code, and is bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondent Fairchild Financial Group, Inc. has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

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:

1. Claimants' claim is denied in its entirety;
2. Claimants' claim for punitive damages is denied in its entirety;
3. Respondent Borelli's request for expungement is denied;
4. The parties shall each bear their respective costs and expenses, including attorneys' fees, except as Fees are specifically addressed below;
5. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500

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. In this matter, there are no active Member firms.

Adjournment Fees

Adjournments requested during these proceedings:

March 5-7, 2001, adjournment by Respondent Borelli = fee waived by Panel

Forum Fees and Assessments

The panel has the authority to assess 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:

One (1) Pre-hearing session with Panel x \$ 1,200 = \$ 1,200

Pre-hearing conference: October 6, 2000 1 session

Eight (8) Hearing sessions x \$ 1,200 = \$ 9,600

Hearing Dates: October 4, 2001 2 sessions
 October 5, 2001 2 sessions
 November 7, 2001 2 sessions
 November 8, 2001 2 sessions

Total Forum Fees = \$ 10,800

The panel has assessed \$ 5,400 of the forum fees to Claimants.

The panel has assessed \$ 5,400 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimants are assessed and shall pay:

Initial Filing Fee	= \$ 500
Forum Fees	= \$ 5,400

Total Fees	= \$ 5,900
Less payments	= \$ 1,700

Balance Due NASD Dispute Resolution, Inc.	= \$ 4,200
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Respondents are jointly and severally assessed and shall pay:

Forum Fees	= \$ 5,400
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Total Fees	= \$ 5,400
Less payments	= \$ 1,000

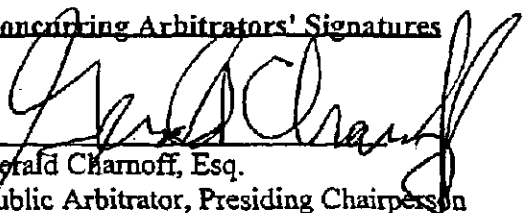
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,400
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All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Gerald Charnoff, Esq.	-	Public Arbitrator, Presiding Chairperson
Elaine Sehart-Green, Esq.	-	Public Arbitrator, Panelist
Walter Peterson, Jr.	-	Non-Public Arbitrator, Panelist

Concerning Arbitrators' Signatures


Gerald Charnoff, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

Elaine Sehrt-Green, Esq.
Public Arbitrator, Panelist

Signature Date

Walter Peterson, Jr.
Non-Public Arbitrator, Panelist

Signature Date

December 10, 2001
Date of Service (For NASD-Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Gerald Charnoff, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Elaine Sehart-Green
Elaine Sehart-Green, Esq.
Public Arbitrator, Panelist

December 5, 2001
Signature Date

Walter Peterson, Jr.
Non-Public Arbitrator, Panelist

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Public Arbitrator, Panelist

Signature Date



Walter Peterson, Jr.
Non-Public Arbitrator, Panelist

12/05/01

Signature Date

December 10, 2001
Date of Service (For NASD-Dispute Resolution office use only)