

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

David Shen, (Claimant) vs. Chase Investments Service Corp. and Malcolm E. Katt,  
(Respondents)

Case Number: 00-00390

Hearing Site: New York, NY

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**REPRESENTATION OF PARTIES**

Claimant David Shen, hereinafter referred to as "Claimant": Boris Lewyckyj, Esq., a sole practitioner, New York, NY.

Respondents Chase Investments Service Corp. ("Chase Investments") and Malcolm E. Katt ("Katt"), hereinafter collectively referred to as "Respondents": Matthew C. Plant, Esq., Bressler, Amery & Ross, P.C., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: January 19, 2000.

Claimant signed the Uniform Submission Agreement: February 8, 2000.

Statement of Answer filed by the Respondents on or about: May 15, 2000.

Respondent Chase Investments did not submit a properly executed Uniform Submission Agreement.

Respondent Katt did not submit a properly executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentation; alteration and modification of account documents without authority; violation of NASD Rules and By Laws; failure to supervise; execution of unauthorized transactions and unsuitability.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; the transactions in the accounts were appropriate and consistent with the Claimant's desires and objectives; whatever damages, if any, that were sustained by Claimant, as alleged in the Statement of Claim, were caused in whole or in part or were contributed to by the negligence of the Claimant; the Statement of Claim is barred by the doctrines of laches, waiver, ratification and estoppel; Respondents acted in good faith and without malice or reckless indifference to the Claimant; Claimant has failed to

mitigate any alleged damages and therefore his claim for damages is barred or reduced pro tanto; Respondents did not breach and duty imposed by operation of law or contract; Claimant's injuries and damages are due to the acts or omissions of parties over whom Respondents had no control or right to control.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 37,132.95
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Costs	\$ Unspecified
Other Monetary Relief: disgorgement of any commissions charged.	

Respondents requested that Claimant's Statement of Claim be dismissed, with prejudice in its entirety, and that the arbitrators award Respondents costs and other further relief as they deem just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents Chase Investments and Katt 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, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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 Chase Investment is hereby liable and shall pay to the Claimant compensatory damages in the amount of \$16,670.39 plus interest at the rate of 9% per annum accruing from November 1, 2001 until the date the award is paid.
2. All requests for relief against Respondent Katt are hereby denied.
3. All other requests are hereby 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	= \$ 175.00
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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. In this matter, the member firm is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$600.00	= \$ 600.00
Pre-hearing conference: September 11, 2000 1 session	

Two (2) Hearing sessions x \$600.00	= \$1,200.00
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Hearing Date: November 28, 2001 2 sessions	
Total Forum Fees	= \$1,800.00

1. The Panel has assessed \$900.00 of the forum fees against the Claimant.
2. The Panel has assessed \$900.00 of the forum fees against Respondent Chase Investments.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$1,075.00
<u>Less payments</u>	= \$ 775.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 300.00

2. Respondent Chase Investments be and hereby is solely liable for:

Member Fees	= \$2,400.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$3,300.00
<u>Less payments</u>	= \$3,300.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution, Inc.

1/9/2002 18:55 FAX

NASD Dispute Resolution, Inc.

Arbitration No. 00-00390

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ARBITRATION PANEL

Richard Cutler, Esq.

Murray L. Lennard, Esq.

C. Kenneth Yoblon

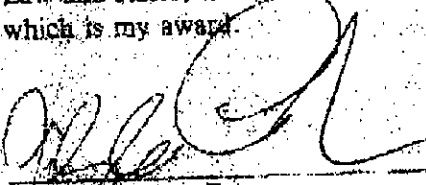
Public Presiding Chair

Public Arbitrator

Industry Arbitrator

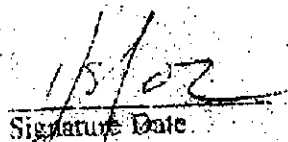
Concurring Arbitrators' Signature(s)

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.



Richard Cutler, Esq.

Public Arbitrator, Presiding Chair

  
Signature Date

Murray L. Lennard, Esq.

Public Arbitrator

Signature Date

C. Kenneth Yoblon

Industry Arbitrator

Signature Date

January 9, 2002  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.

Arbitration No. 00-00390

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ARBITRATION PANEL

Richard Cutler, Esq.

Public, Presiding Chair

Murray L. Lennard, Esq.

Public Arbitrator

C. Kenneth Yoblon

Industry Arbitrator


Concurring Arbitrators' Signature(s)

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.

Richard Cutler, Esq.

Public Arbitrator, Presiding Chair

Signature Date

  
Murray L. Lennard, Esq.  
Public Arbitrator

12/31/01  
Signature Date

C. Kenneth Yoblon

Industry Arbitrator

Signature Date

January 9, 2002

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Richard Cutler, Esq.	-	Public, Presiding Chair
Murray L. Lennard, Esq.	-	Public Arbitrator
C. Kenneth Yoblon	-	Industry Arbitrator

**Concurring Arbitrators' Signature(s)**


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Richard Cutler, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Murray L. Lennard, Esq.  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
C. Kenneth Yoblon  
Industry Arbitrator

12/28/01  
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Signature Date

January 9, 2002

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Date of Service (For NASD office use only)