

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Jay Patel and Naresh Patel, (Claimants) vs. First Montauk Securities Corp. and Dhruva Sethna,
(Respondents)

Case Number: 00-00432

Hearing Site: Buffalo, New York

REPRESENTATION OF PARTIES

Claimants, Jay Patel ("J. Patel") and Naresh Patel ("N. Patel"), hereinafter collectively referred to as "Claimants": John M. DeLaney, Esq., DeLaney & O'Connor, LLP, Syracuse, NY.

Respondents, First Montauk Securities Corp. ("FMSC") and Dhruva Sethna ("Sethna"), hereinafter collectively referred to as "Respondents": Lloyd S. Clareman, Esq., a sole practitioner, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 27, 2000.

J. Patel signed the Uniform Submission Agreement.

N. Patel signed the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: May 1, 2000.

FMSC signed the Uniform Submission Agreement: May 1, 2000.

Sethna signed the Uniform Submission Agreement: May 1, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trades; unsuitability; breach of fiduciary duty; failure to supervise; negligence; misrepresentations and omissions; respondeat superior; and violation of the Securities Exchange Act of 1934. Claimants' claim involved the stocks of CMGI, Inc. and Excite, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants have failed to state a claim on which relief can be granted; Claimants' claims are barred, in whole or in part, by the applicable statutes of limitation; Claimants' claims are barred, in whole or in part, by the doctrines of waiver, ratification, and estoppel by reason, among other things, of their receipt of monthly account statements and written confirmations disclosing each of the transactions

about which they now complain; Claimants knowingly assumed the market risks of the transactions about which they now complain; Claimants failed to mitigate their alleged damages; the Panel is without authority to award attorneys' fees or punitive damages; and punitive damage Awards violate the Due Process clause of the Constitution.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages in the amount of \$172,000.00 plus loss of interest, or, in the alternative, return on Claimants' portfolio to be calculated in accordance with the well-managed account theory;
2. Punitive damages as the Panel deems necessary;
3. A finding that Sethna committed fraud with respect to Claimants so as to become a non-dischargeable debt should Sethna attempt to evade his responsibility to pay an arbitration Award; and
4. Attorneys' fees and other costs to bring this action.

Respondents requested that Claimants' claims be dismissed in all respects, with NASD hearing costs assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondents be and hereby are jointly and severally liable for and shall pay to J. Patel, only, the sum of \$3,500.00 as compensatory damages.
2. FMSC be and hereby is solely liable for and shall pay to J. Patel, only, the sum of \$26,600.00 as compensatory damages.

3. All claims of N. Patel are hereby dismissed in their entirety.
4. Claimants' request for punitive damages is hereby denied.
5. All other requests for relief 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	= \$ 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. In this matter, First Montauk Securities Corp. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

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 \$1,125.00	= \$1,125.00
Pre-hearing conference: December 18, 2000	1 session
Six (6) Hearing sessions x \$1,125.00	= \$6,750.00
Hearing Dates: May 15, 2001	2 sessions
May 16, 2001	2 sessions
May 17, 2001	2 sessions

Total Forum Fees	= \$7,875.00
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The Panel has assessed all of the forum fees against FMSC.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimants</u>	= \$ 1,125.00

2. FMSC be and hereby is solely liable for:

<u>Member Fees</u>	= \$ 4,600.00
<u>Forum Fees</u>	= \$ 7,875.00
<u>Total Fees</u>	= \$12,475.00
<u>Less payments</u>	= \$ 4,600.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 7,875.00


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

ARBITRATION PANEL

John P. DeLuca	-	Public Arbitrator, Presiding Chair
Jeffrey M. Bain, Esq.	-	Public Arbitrator
Jeffrey Mark Schwartz	-	Industry Arbitrator

Concurring Arbitrators' Signatures

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.



John P. DeLuca
Public Arbitrator, Presiding Chair

6-25-01

Signature Date

Jeffrey M. Bain, Esq.
Public Arbitrator

Signature Date

Jeffrey Mark Schwartz
Industry Arbitrator

Signature Date

June 28, 2001

Date of Service (For NASD office use only)

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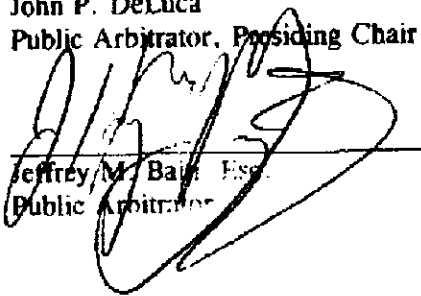
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Public Arbitrator

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June 28, 2001
Signature Date

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