

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marshall Field, Claimant v. Passport Securities, Inc., Mark A. d'Ercole and Carol A. Petrarca,
Respondents

Case Number: 00-00746

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Steve A. Buchwalter, Esq.
Law Offices of Steve A. Buchwalter
Encino, California

For Respondents:

Douglas B. Martin, Jr., Esq.
Law Offices of Douglas B. Martin
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 14, 2000

Joint Statement of Answer filed by Respondents: May 22, 2000

Counterclaim filed by Respondent/Counter-Claimant Passport Securities, Inc., hereinafter
"Respondent Passport Securities, Inc.": May 22, 2000

Answer to Counterclaim filed by Claimant/Counter-Respondent, hereinafter "Claimant": May
31, 2000

Claimant's Uniform Submission Agreement: Signed but undated

Respondent Passport Securities, Inc.'s Uniform Submission Agreement signed: May 22, 2000

Respondent Mark A. d'Ercole's Uniform Submission Agreement signed: May 23, 2000

Respondent Carol A. Petrarca's Uniform Submission Agreement signed: May 22, 2000

CASE SUMMARY

Claimant alleged fraud, deceit, misrepresentation, omission of material fact, conversion, violation of California regulations and negligence.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses. Respondent Passport Securities, Inc.'s Counterclaim alleged breach of contract, fraud, indemnification, and malicious prosecution.

Claimant denied the allegations of wrongdoing set forth in the Respondent Passport Securities, Inc.'s Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$22,707.77, treble damages, unspecified punitive damages, interest and costs.

Respondent Passport Securities, Inc. requested dismissal of the Claimant's Statement of Claim in its entirety, compensatory damages in the amount of \$80,000.00, unspecified punitive damages, interest and costs.

Claimant requested dismissal of the Respondent Passport Securities, Inc.'s Counterclaim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On October 5, 2002, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On January 16, 2002, Claimant filed a Motion to Dismiss certain portions of Respondent Passport Securities, Inc.'s Counterclaim. On February 13, 2002, the Panel denied Claimant's Motion.

On February 14, 2002, Claimant renewed it's Motion to Dismiss certain portions of Respondent Passport Securities, Inc.'s Counterclaim. On July 26, 2002, the Panel denied Claimant's Motion.

During the hearing, Respondent Passport Securities, Inc. dismissed its fraud claim against Claimant.

During the hearing, Respondents filed a Motion to Dismiss and requested the Panel to refer the case back to the NASD for reassignment to a single industry arbitrator. The Panel denied the Motion.

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

1. Claimant's claims are denied in their entirety.
2. Respondent Passport Securities, Inc.'s Counterclaim is denied in its entirety.
3. The parties shall bear their respective costs, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 225.00
Respondent Passport Securities, Inc.'s Counterclaim filing fee	= \$ 1,000.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Passport Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 1,500.00
Total Member Fees	= \$ 3,100.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

Five (5) Pre-hearing conference sessions with the Panel @ \$750.00/session = \$ 3,750.00

Pre-hearing conferences:	April 10, 2001	1 session
	May 11, 2001	1 session
	January 8, 2002	1 session
	February 11, 2002	1 session
	July 26, 2002	1 session

Four (4) Hearing sessions @ \$750.00/session = \$ 3,000.00

Hearings:	January 19, 2004	2 sessions
	January 20, 2004	2 sessions

Total Forum Fees = **\$ 6,750.00**

1. The Panel assessed \$3,375.00 of the forum fees to Claimant.
2. The Panel assessed \$3,375.00 of the forum fees to Respondent Passport Securities Inc.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,600.00
Less payments	= \$(1,250.00)
Balance Due NASD Dispute Resolution	= \$ 2,350.00

2. Respondent Passport Securities Inc. is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,100.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 7,475.00
Less payments	= \$(5,450.00)
Balance Due NASD Dispute Resolution	= \$ 2,025.00

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

ARBITRATION PANEL

Reed H. Bement, Esq.	-	Public Arbitrator, Presiding Chair
Charles B. Stark, Jr.	-	Public Arbitrator
Richard B. Bullock	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Reed H. Bement
Reed H. Bement, Esq.
Chair, Public Arbitrator

1/28/04
Signature Date

Charles B. Stark, Jr.
Charles B. Stark, Jr.
Public Arbitrator

Signature Date

Richard B. Bullock
Richard B. Bullock
Non-Public Arbitrator

Signature Date

1/28/04
Date of Service

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