

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

David O'Kelley, Claimant v. Continental Broker-Dealer Corp., Respondent

Case Number: 00-01002

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, David O'Kelley, hereinafter referred to as "Claimant" was represented by W. W. McNeal, Esq. of McNeal, Garner & Lippe PLLC, Lockhart, Texas.

Respondent Continental Broker Dealer Corp. hereinafter referred to as "Respondent", was represented by Theodore A. Kresbach, Esq. of Theodore A. Kresbach & Associates. P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 5, 2000

Claimant signed the Uniform Submission Agreement: February 18, 2000

Statement of Answer filed by Respondent, on or about: July 25, 2000

Respondent, signed the Uniform Submission Agreement: on July 21, 2000

CASE SUMMARY

Claimant asserted the following causes of action: Deceptive Trade Practices; Breach of Fiduciary Duty; Breach of Contract; Securities Fraud; and Negligent Supervision. All of Claimant's allegation relate to the purchase of securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent acted at all times in compliance with the applicable rules and regulations; Respondent acted in good faith and did not induce the alleged violations of law; the damages alleged by Claimant have no causal relationship with any act committed by or legally attributed to the Respondent; Claimant failed to mitigate his damages; Claimant failed to plead fraud with the requisite particularity; Claimant caused his own damages; the damages alleged by the Claimant are the

proximate result of persons/or entities other than the Respondent; Claimant is barred from seeking recovery by the doctrines of laches, waiver, estoppel and ratification; Claimant's claims are barred by the applicable statute of limitations; and, Claimant seeks relief which is beyond the scope of the arbitration forum.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 52, 500.00
Punitive Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified

Respondent requested that the claims against it be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Respondent filed a motion that it be assigned all reimbursements which may be made by the broker who was involved in the transaction, Nicholas Cosmo, to Claimant, not to exceed the amount of the award. The Panel granted this motion.

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 Continental Broker Dealer Corp. is liable for and shall pay to the Claimant, David O'Kelley, the sum of \$10,575.00 in compensatory damages, plus interest at the rate of 9% per annum, which shall begin to accrue upon service of this award and shall cease to accrue when the award is paid in full.
2. Any relief not specifically addressed herein is denied. All costs that are not specifically enumerated herein shall be borne by the party who incurred them, including any attorneys' fees.

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 = \$225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,000.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,500.00

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 \$750.00 = \$ 750.00
Pre-hearing conference(s): December 21, 2000 1 session

Two (2) Hearing sessions x \$750.00 = \$1,500.00
Hearing Dates: April 26, 2001 2 sessions

Total Forum Fees = \$2, 250.00

1. The Panel has assessed \$1,125.00 of the forum fees to the Claimant, David O'Kelley.
2. The Panel has assessed \$1,125.00 of the forum fees to the Respondent, Continental Broker Dealer Corp.

FEE SUMMARY

1. Claimant David O'Kelley is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,350.00
 <u>Less payments</u>	 <u>= \$ 975.00</u>

Balance Due NASD Dispute Resolution, Inc. = \$ 375.00

3. Respondent is solely liable for:

Member Fees = \$3,100.00

Forum Fees = \$1,125.00

Total Fees = \$4,225.00

Less payments = \$3,100.00

Balance Due NASD Dispute Resolution, Inc. = \$1,125.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Phillip I. McConnell, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Leonard J. Sullivan, Esq.
Public Arbitrator

Signature Date

Morris Rubin
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Phillip I. McConnell

Phillip I. McConnell, Esq.
Public Arbitrator, Presiding Chair

June 5, 2001

Signature Date

Leonard J. Sullivan, Esq.
Public Arbitrator

Signature Date

Morris Rubin
Industry Arbitrator

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Phillip I. McConnell, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Leonard J. Sullivan, Esq.
Public Arbitrator

6/6/01
Signature Date

Morris Rubin
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)