

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Leonard A. Kraus, Inc.

Case Number: 00-01069

Name of the Respondents
Gaines, Berland Inc.
James A. Frisone
Arthur Coffee

Hearing Site: Baltimore, MD

Nature of the Dispute: Customer vs. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimant, Leonard A. Kraus, Inc. ("Kraus"), hereinafter referred to as "Claimant", was represented by Thomas Costello, Esq., West & Moore, LLC, Washington, D.C.

Respondents, Gaines, Berland Inc. ("Gaines"), James A. Frisone ("Frisone"), and Arthur Coffee ("Coffee"), hereinafter collectively referred to as "Respondents", were represented by Cirino M. Bruno, Esq., Gusrae, Kaplan & Bruno, PLLC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about May, 2000.

Leonard A. Kraus, Chief Executive Officer, signed the Uniform Submission Agreement on behalf of Claimant on March 1, 2000.

Statement of Answer and Motion for More Definitive Statement of Claim filed by Respondents on May 31, 2000.

Respondents did not file signed Uniform Submission Agreements.

Claimant filed an Opposition to the Motion for More Definitive Statement of Claim on August 1, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: actual fraud, constructive fraud, breach of fiduciary duty, churning, breach of contract, negligence, negligent supervision, and violation of the Maryland Securities Act. The causes of action relate to Respondents' failure to meet a margin call in their account that they maintained with Claimant.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following affirmative defenses, among others: Respondents acted in good faith and did not induce the alleged acts constituting the alleged violations of law;

failure to mitigate damages; failure to plead fraud with the requisite particularity; failure to state a claim upon which relief may be granted; Claimant and/or market conditions were the proximate cause of any damages; and, Claimant's claims are barred by the doctrines of laches, waiver, estoppel and ratification.

RELIEF REQUESTED

Claimant requested the following damages:

Compensatory Damages	\$ 1,500,000.00
Punitive Damages	\$ 3,000,000.00
Interest	amount unspecified
Other Costs	amount unspecified

Respondents requested that Claimant's claims be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

Prior to the conclusion of the hearing, Claimant and Respondents agreed to enter a Stipulation of Award that they executed on December 15, 2001. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. The matter against Respondents Coffee and Frisone shall be dismissed with prejudice;
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondents Coffee's and Frisone's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Coffee and Frisone must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 600.00
--------------------------	-------------

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 person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Gaines is a party.

Member surcharge	= \$ 2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00
<u>Total Member Fees</u>	<u>= \$7,600.00</u>

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 @ \$ 1,200	= \$ 1,200.00
Pre-hearing conference: March 6, 2001 1 session	
<u>Total Forum Fees</u>	<u>= \$ 1,200.00</u>

1. The Panel has assessed \$ 600.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 600.00 of the forum fees jointly and severally to Respondents.

FEES SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 600.00
Retained Hearing Session Deposit	= \$ 600.00
<u>Total Fees</u>	<u>= \$ 1,800.00</u>
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent Gaines is assessed and shall pay the following fees:

<u>Member Fees</u>	= \$ 7,600.00
<u>Total Fees</u>	= \$ 7,600.00
<u>Less payments</u>	= \$ 7,600.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 00.00

3. Respondents Gaines, Frisone, and Coffee are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 600.00

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

ARBITRATION PANEL

William J. McAuliffe, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Lawrence S. Lapidus, Esq.	-	Public Arbitrator, Panelist
Kurt Matthew Schwartz	-	Non-Public Arbitrator, Panelist

NASD Dispute Resolution

Arbitration No. 00-01069

Stipulated Award Page 5

Concurring Arbitrators' Signatures

William J. McAuliffe, Jr.

William J. McAuliffe, Jr., Esq.
Public Arbitrator, Presiding Chairperson

04/03/04
Signature Date

Lawrence S. Lapidus, Esq.
Public Arbitrator, Panelist

Signature Date

Kurt Matthew Schwartz
Non-Public/Public Arbitrator, Panelist

Signature Date

April 5, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

William J. McAuliffe, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Lawrence S. Lapidus, Esq.
Public Arbitrator, Panelist

Signature Date

Kurt Matthew Schwartz
Kurt Matthew Schwartz
Non-Public/Public Arbitrator, Panelist

4/2/04
Signature Date

April 5, 2004
Date of Service (For NASD Dispute Resolution office use only)