

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James C. Ciferni, Claimant v. Datek Online Brokerage LLC, Respondent

Case Number: 00-03455

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

James C. Ciferni
Pro Se
Ventura, California

For Respondent:

G. Thomas Fleming, III, Esq.
Jones, Bell, Abbott, Fleming
& Fitzgerald
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: September 25, 2000

Claimant's Uniform Submission Agreement signed: August 9, 2000

Statement of Answer filed by Respondent: December 29, 2000

Respondent's Uniform Submission Agreement signed: October 10, 2000

CASE SUMMARY

Claimant alleged breach of contract, breach of fiduciary duty and negligence in the transfer of an account.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$231,000.00 in compensatory damages and \$231,000.00 in punitive damages.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On October 18, 2002, the parties stipulated to the hearing of this matter before a panel composed of two public arbitrators. This stipulation was made part of the record at the commencement of the hearing on October 21, 2002.

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, 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) The parties shall bear their respective costs, including attorney's fees.
- 3) 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	= \$ 300.00
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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 Datek Online Brokerage LLC is a party and the following fees are assessed:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$2,500.00</u>
Total Member Fees	= \$4,600.00

Adjournment Fees

The following adjournment fees are assessed:

July 22-23, 2002 adjournment requested by Claimant	= \$1,125.00
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Forum Fees and Assessments

The Arbitrator/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 or the parties and the Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$3,375.00
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Pre-hearing conferences:	March 6, 2001	1 session
	July 3, 2001	1 session
	March 5, 2002	1 session

Two (2) Hearing sessions @ \$1,125.00/session	= \$2,250.00
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<u>Hearings:</u>	<u>October 21, 2002</u>	<u>2 sessions</u>
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Total Forum Fees	= \$5,625.00
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1. The Panel assessed \$2,812.50 of the forum fees to Claimant James C. Ciferni.
2. The Panel assessed \$2,812.50 of the forum fees to Respondent Datek Online Brokerage LLC.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	<u>= \$ 2,812.50</u>
Total Fees	= \$ 4,237.50
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 2,812.50

2. Respondent Datek Online Brokerage LLC is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 2,812.50</u>
Total Fees	= \$ 7,412.50
<u>Less payments</u>	<u>= \$(4,600.00)</u>
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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.

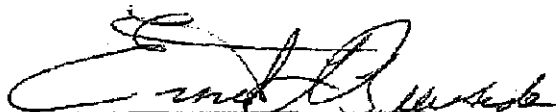
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ARBITRATION PANEL

Ernest L. Burnside, M.A.
Joyce L. Hurley

- *Public Arbitrator, Presiding Chair*
- *Public Arbitrator*

Concurring Arbitrators' Signatures



Ernest L. Burnside, M.A.
Chair, Public Arbitrator

10/22/02
Signature Date

Joyce L. Hurley
Public Arbitrator

Signature Date

10/22/02
Date of Service

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