

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Samuel Richard Scott, Claimant v. Kennedy Cabot & Company (aka Calabasas Asset Holding Company, Inc.), Donald F. Mills, and Allison B. Clago, Respondents

Case Number: 00-03600

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Kenneth S. Gaines, Esq.
Law Offices of Kenneth S.
Gaines
Woodland Hills, California

Steven L. Miller, Esq.
Law Offices of Steven L.
Miller
Woodland Hills, California

For Respondents:

George H. Kupper, Esq.
The Gebbia Group
Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: August 15, 2000

Claimant's Uniform Submission Agreement filed: August 15, 2000

Joint Statement of Answer filed by Respondents Kennedy Cabot & Company (aka Calabasas Asset Holding Company, Inc.), Donald F. Mills, and Allison B. Clago: October 23, 2000

Respondent Kennedy Cabot & Company's (aka Calabasas Asset Holding Company, Inc.)
Uniform Submission Agreement signed: September 20, 2000

Respondent Donald F. Mills' Uniform Submission Agreement signed: September 20, 2000

Respondent Allison B. Clago's Uniform Submission Agreement signed: September 15, 2000

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, misrepresentations, and omission of facts. The dispute involved the purchase and/or sale of Bradlees, Inc. bonds.

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$88,267.00, interest, and arbitration costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and arbitration costs. Additionally, Respondents Donald F. Mills and Allison B. Clago requested the matter be expunged from their CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

On November 2, 2000, the parties agreed to proceed under Rule 10336 of the NASD Code of Arbitration Procedure.

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 Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety and dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Donald F. Mills' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Donald F. Mills must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Allison B. Clago's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Allison B. Clago 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 attorney's fees.
- 5) 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, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 225.00

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Kennedy Cabot & Company (aka Calabasas Asset Holding Company, 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

Adjournment Fees

The following adjournment fees are assessed:

Hearing Date, July 20, 2001	
adjournment requested by Respondents	= \$ 0.00
Fee Waived by Arbitrator	

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

1 Pre-hearing conference session @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: April 20, 2001 1 session	
2 Hearing sessions @ \$ 550.00/session	= \$ 1,100.00
Hearings: November 16, 2001 2 sessions	
Total Forum Fees	= \$ 1,550.00

1. The Arbitrator assessed \$ 775.00 of the forum fees to Claimant Samuel Richard Scott.
2. The Arbitrator assessed \$ 775.00 of the forum fees jointly and severally to Respondents Kennedy Cabot & Company (aka Calabasas Asset Holding Company, Inc.), Donald F. Mills, and Allison B. Clago.

Fee Summary

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

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 775.00
<u>Total Fees</u>	= \$ 1,000.00
<u>Less payments</u>	= \$ (975.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 25.00

2. Respondent Kennedy Cabot & Company (aka Calabasas Asset Holding Company, Inc.) is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
<u>Less payments</u>	= \$ (700.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,400.00

3. Respondents Kennedy Cabot & Company (aka Calabasas Asset Holding Company, Inc.), Donald F. Mills, and Allison B. Clago are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 775.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 775.00

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

ARBITRATOR

Michael A. Burns, Esq.

Public Arbitrator, Presiding Chair

Arbitrator's Signature



Michael A. Burns, Esq.
Chair, Public Arbitrator

11-28-01
Signature Date

11/28/01
Date of Service