

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Alfonso DeMartino, (Claimant) vs. Prime Capital Services, Inc. and Salvatore Liggieri,
(Respondents)

Case Number: 00-03614

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Alfonso DeMartino, hereinafter referred to as "Claimant": Arthur P. Fisch, Esq.,
Attorney at Law, New York, NY.

Respondent, Prime Capital Services, Inc. ("Prime"): Fred N. Knopf, Esq., Wilson, Elser,
Moskowitz, Edelman & Dicker LLP, New York, NY. Previously represented by: Richard B.
Cohen, Esq., Akabas & Cohen, New York, NY.

Respondent, Salvatore Liggieri ("Liggieri"), did not appear at the hearings in this matter.
Previously represented by: Andrew W. Sidman, Esq., Butler, Fitzgerald & Potter, New York,
NY.

CASE INFORMATION

Statement of Claim filed on or about: August 17, 2000.
Claimant signed the Uniform Submission Agreement: August 18, 2000.

Statement of Answer filed by Prime on or about: October 12, 2000.
Prime signed the Uniform Submission Agreement: October 10, 2000.

Statement of Answer filed by Liggieri on or about: October 13, 2000.
Liggieri signed the Uniform Submission Agreement: September 15, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized transactions;
misrepresentations; and failure to supervise. Claimant's claim involved unspecified financial
products.

Unless specifically admitted in its Answer, Prime denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant fails to state a claim upon which relief may be granted; Claimant's claims are barred by the equitable doctrines of estoppel, laches, ratification, and waiver; at all times relevant herein, Prime acted properly and in good faith with respect to Claimant's account; Claimant has failed to mitigate damages, if any; Claimant failed to exercise due diligence, was reckless and/or negligent in the supervision of his financial affairs, particularly the operation of the account at issue; any alleged losses which may have occurred with respect to Claimant's investments were the direct result of adverse market conditions and/or margin calls authorized to be made with respect to the account pursuant to Claimant's margin agreement, and cannot be attributed to Prime; to the extent the Statement of Claim seeks damages for an alleged violation of the rules of the NYSE, the NASD, or any other self-regulatory organization, Claimant fails to state a claim upon which relief may be granted because an alleged violation of the rules of any self-regulatory agency does not give rise to a private right of action; Claimant fails to state a claim upon which relief can be granted because there exists no per se fiduciary duty between broker and customer and Claimant has failed to allege any particular or unique facts which could be construed to give rise to such a duty; Prime maintained an adequate and reasonable supervision and control over its employees, and at all times acted in good faith and did not at any time, directly or indirectly, induce any act or acts constituting a violation or cause of action; Claimant should be precluded and estopped from asserting any claim based upon the equitable doctrine of unclean hands; and Claimant is not entitled to an award of attorneys' fees, punitive damages, interest, or the costs of this proceeding.

Unless specifically admitted in his Answer, Liggieri denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim is barred by Claimant's assumption of the risk associated with his investments; the Statement of Claim is barred by Claimant's contributory negligence; the Statement of Claim is barred by Claimant's ratification of the trades in his account; the Statement of Claim is barred by the doctrines of estoppel, waiver, and unclean hands; Claimant has failed to mitigate any purported losses that he incurred; Claimant has failed to establish a prime facie case for punitive damages; and Claimant has failed to establish any entitlement to attorneys' fees.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$900,000.00, plus attorneys' fees and punitive damages.

Prime requested that the Panel issue an Award dismissing the Statement of Claim in its entirety, and granting Prime such other, further, and different relief as the Panel may deem appropriate, including costs of this proceeding.

Liggieri requested that the Statement of Claim be dismissed with prejudice, and that all costs be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Liggieri has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without Liggieri present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The parties have 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, 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. Prime and Liggieri are jointly and severally liable for and shall pay to Claimant the sum of \$15,000.00 as compensatory damages.
2. Claimant's request for punitive damages is hereby denied.
3. All other requests for relief are hereby denied.

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	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Prime Capital Services, Inc. is a party.

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

Oct. 16 & 17, 2001, adjournment by Claimant	= WAIVED
Nov. 8 & 9, 2001, adjournment by Claimant & Respondents	= WAIVED
Dec. 17, 2001, adjournment by Claimant & Respondents	= \$ 750.00 each
Apr. 8 & 9, 2002, adjournment by Claimant	= WAIVED
Jul. 30 & 31, 2002, adjournment by Prime	= WAIVED

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:

Five (5) Pre-hearing sessions with Panel x \$1,200.00 = \$ 6,000.00

Pre-hearing conferences:	May 8, 2001	1 session
	October 16, 2001	1 session
	December 17, 2001	1 session
	April 8, 2002	1 session
	July 31, 2002	1 session

Seven (7) Hearing sessions x \$1,200.00 = \$ 8,400.00

Hearing Dates:	February 25, 2002	1 session
	May 13, 2002	2 sessions
	May 14, 2002	2 sessions
	September 25, 2002	2 sessions

Total Forum Fees = \$14,400.00

The Panel has assessed all of the forum fees jointly and severally against Prime and Liggieri.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Prime, requested tapes, \$90.00.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Adjournment Fee</u>	= \$ 750.00
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= \$ 1,575.00
Refund Due Claimant	= \$ 450.00

2. Prime is solely liable for:

Member Fees	= \$ 6,100.00
<u>Administrative Costs</u>	= \$ 90.00
Total Fees	= \$ 6,190.00
<u>Less payments</u>	= \$ 6,190.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Prime and Liggieri are jointly and severally liable for:

Adjournment Fee	= \$ 750.00
<u>Forum Fees</u>	= \$14,400.00
Total Fees	= \$15,150.00
<u>Less payments</u>	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$14,400.00

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

ARBITRATION PANEL

Lawrence A. Pittore, Esq.	-	Public Arbitrator, Presiding Chair
Robert E. Bartkus, Esq.	-	Public Arbitrator
Anju D. Jessani	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Lawrence A. Pittore, Esq.
Public Arbitrator, Presiding Chair

10/16/02
Signature Date

Robert E. Bartkus, Esq.
Public Arbitrator

Signature Date

Anju D. Jessani
Non-Public Arbitrator

Signature Date

October 18, 2002
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Lawrence A. Pittore, Esq.	-	Public Arbitrator, Presiding Chair
Robert E. Bartkus, Esq.	-	Public Arbitrator
Anju D. Jessani	-	Non-Public Arbitrator

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Lawrence A. Pittore, Esq.
Public Arbitrator, Presiding Chair



Robert E. Bartkus, Esq.
Public Arbitrator

Signature Date

10-11-02

Signature Date

Anju D. Jessani
Non-Public Arbitrator

Signature Date

October 18, 2002

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Robert E. Bartkus, Esq.	-	Public Arbitrator
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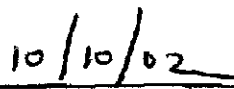
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Public Arbitrator

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Anju D. Jessani
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Signature Date

October 18, 2002

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