

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Scott P. Kenney, as Trustee for the
Robert P. Kenney Trust and the
Dorothy E. Kenney Trust, and in his individual capacity,
Claimant

Vs.

McDonald & Company Securities, Inc., and
Michael R. Griffis,
Respondents.

Case Number: 00-04270

Hearing Site: Cleveland, Ohio

REPRESENTATION OF PARTIES

Claimant Scott P. Kenney, as trustee for the Robert P. Kenney Trust and the Dorothy E. Kenney Trust, and in his individual capacity ("Kenney"), hereinafter referred to as Claimant, was represented by Joel I. Newman, Esquire, of Newman and Newman, Cleveland, Ohio.

Respondents McDonald & Company Securities, Inc. ("McDonald & Co."), and Michael R. Griffis ("Griffis"), hereinafter collectively referred to as "Respondents," were represented by Kenneth A. Bravo, Esquire, of Ulmer & Berne, LLP, Cleveland, Ohio.

CASE INFORMATION

The Statement of Claim was filed on or about September 27, 2000.
Claimant signed the Uniform Submission Agreement, in his individual capacity and as trustee for the above-named trusts, on September 20, 2000.

Respondents McDonald & Co. and Griffis filed their joint Statement of Answer on or about January 17, 2001.
Henry V. Kerr, Senior Vice President and General Counsel for Respondent McDonald & Co., signed the Uniform Submission Agreement on November 11, 2000.
Respondent Griffis signed the Uniform Submission Agreement on December 1, 2000.

CASE SUMMARY

Claimant asserted the following cause of action: fraud involving the purchase of municipal bond portfolios from Claimant by Respondent McDonald & Co.

Unless stated otherwise in their Statement of Answer, Respondents denied the allegations set forth in the Statement of Claim and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted, violation of applicable statutes of limitations, assumption of the risk, contributory negligence, waiver and laches.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$71,894.70
Punitive Damages	\$28,000.00

Respondents requested that the claims against them be dismissed in their entirety, that they be awarded costs, attorney's fees, and forum fees, and that any reference to this arbitration be expunged from Respondent Griffis' records maintained in the Central Registration Depository of the NASD ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 23, 2001, Respondents filed a Motion to Dismiss the Statement of Claim. Claimant filed a Response to the Motion on or about August 27, 2001. Respondents filed a Reply in Support of their Motion on or about September 17, 2001. The undersigned Panel heard oral argument on the Motion on September 28, 2001. On October 1, 2001, the undersigned Panel denied Respondents' Motion to Dismiss.

At the hearing, Claimant voluntarily dismissed all claims against Respondents filed by Scott P. Kenney in his individual capacity. Respondents then moved to dismiss the remaining claims of Scott P. Kenney as trustee for the Robert P. Kenney Trust and the Dorothy E. Kenney Trust. After hearing argument from both sides, the undersigned Panel granted Respondents' Motion to Dismiss.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and oral argument on Respondents' Motion to Dismiss, the undersigned Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims filed by Claimant Scott P. Kenney, trustee for the Robert P. Kenney Trust and the Dorothy E. Kenney Trust, against Respondents McDonald & Company Securities, Inc., and Michael R. Griffis are dismissed with prejudice.

2. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees.
3. Any and all relief not specifically addressed herein (including punitive damages) is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain the following non-refundable filing fee:

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, McDonald & Co., 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 has the authority to assess forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with the full Panel x \$750	= \$1,500.00
Pre-hearing conferences:	
May 15, 2001	1 session
September 28, 2001	1 session

Two (2) Hearing sessions x \$750	= \$1,500.00	
Hearing Date:	October 31, 2001	2 sessions
Total Forum Fees	<hr/> = \$3,000.00	

The Panel has assessed forum fees incurred in this arbitration as follows: one half (\$1,500.00) to Claimant, one half (\$1,500.00) to Respondents McDonald & Co. and Griffis, jointly and severally.

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Fee Summary

1. Claimant Scott P. Kenney is solely liable for:

Forum Fees	= \$1,500.00
<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$1,725.00
<u>Less payments</u>	= \$ 975.00
Balance Due to NASD Dispute Resolution, Inc.	= \$ 750.00

2. Respondent McDonald & Company Securities, Inc., is solely liable for:

<u>Member Fees</u>	= \$3,100.00
Total Fees	= \$3,100.00
<u>Less payments</u>	= \$3,100.00
Balance Due to NASD Dispute Resolution, Inc.	= \$ 0.00

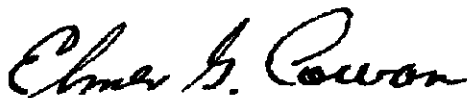
3. Respondents McDonald & Company Securities, Inc., and Michael R. Griffis are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,500.00
Total Fees	= \$1,500.00
<u>Less payments</u>	= \$ 600.00
Balance Due to NASD Dispute Resolution, Inc.	= \$ 900.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Elmer G. Cowan, Esq.	-	Public Arbitrator, Chairperson
Michael L. King	-	Public Arbitrator
Richard A. Scalfani	-	Non-Public Arbitrator



Elmer G. Cowan, Esq.
Chairperson

DEC - 7 2001

Signature Date

Michael L. King
Public Arbitrator

Signature Date

Richard A. Scalfani
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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NASD REGULATION

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Michael L. King	-	Public Arbitrator
Richard A. Scalfani	-	Non-Public Arbitrator

Elmer G. Cowan, Esq.
Chairperson

Signature Date



Michael L. King
Public Arbitrator



Signature Date

Richard A. Scalfani
Non-Public Arbitrator

Signature Date

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Elmer G. Cowan, Esq.
 Michael L. King
 Richard A. Scafani

Public Arbitrator, Chairperson
 Public Arbitrator
 Non-Public Arbitrator

Elmer G. Cowan, Esq.
 Chairperson

Signature Date

Michael L. King
 Public Arbitrator

Signature Date

Richard A. Scafani
 Richard A. Scafani
 Non-Public Arbitrator

Dec 7, 2001
 Signature Date

Date of Service (For NASD-Dispute Resolution office use only)