

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael Dovsky and Sylvia Tillman, Claimants v. Jeffrey A. Vann, Garry H. Grace, and Thomas H. Sunderland, Respondents

Case Number: 00-04721

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimants:

Michael Dovsky and Sylvia Tillman
In Pro Per
Encinitas, California

For Respondents Jeffrey A. Vann and
Garry H. Grace:

G. Mark Brewer, Esq.
Brewer & Carlson, LLP
La Jolla, California

For Respondent Thomas H. Sunderland:

Thomas H. Sunderland
In Pro Per
Laguna Hills, California

CASE INFORMATION

Statement of Claim filed: October 4, 2000

Amended Statement of Claim filed: August 23, 2001

Claimant Michael Dovsky's Uniform Submission Agreement signed: September 30, 2000

Claimant Sylvia Tillman's Uniform Submission Agreement signed: July 6, 2001

Statement of Answer filed by Respondent Jeffrey A. Vann: January 24, 2001

Statement of Answer filed by Respondent Garry H. Grace: January 24, 2001

Respondent Garry H. Grace's Uniform Submission Agreement signed: February 5, 2001

CASE SUMMARY

In their Original and Amended Statement of Claim, Claimants Michael Dovsky and Sylvia Tillman alleged breach of fiduciary duty, breach of contract, negligence, failure to supervise, omission of facts, manipulations, misrepresentation, and fraud. The dispute involved an FDIC insured certificate of deposit.

Respondents Jeffrey A. Vann and Garry H. Grace denied the allegations of wrongdoing set forth in Claimant Michael Dovsky's Statement of Claim.

Respondent Thomas H. Sunderland did not file a Statement of Answer to Claimant's Original Statement of Claim or Claimants' Amended Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant Michael Dovsky requested \$60,000.00 in compensatory damages, \$60,000.00 in punitive damages, and 9.314% interest accrued as simple interest until the date of arbitration. In the Amended Statement of Claim, Claimants Michael Dovsky and Sylvia Tillman requested damages in the amount of \$15,978.47 and punitive damages in the amount of \$29,000.00.

Respondents Jeffrey A. Vann and Garry H. Grace requested dismissal of the Claimant's Statement of Claim in its entirety, and reimbursement of arbitration costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On August 23, 2001, Claimants Michael Dovsky and Sylvia Tillman filed an Amended Statement of Claim adding Sylvia Tillman as a Claimant and Thomas H. Sunderland as a Respondent.

On February 11, 2002, NASD Dispute Resolution received notice that Cooke B. Christopher filed for Chapter 7 bankruptcy.

On July 11, 2002, the parties stipulated to this case being heard by two arbitrators.

On October 22, 2002, NASD Dispute Resolution received notice that Claimants settled with Respondents Jeffrey A. Vann and Garry H. Grace.

Respondent Jeffrey A. Vann did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

Respondent Thomas H. Sunderland did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made by the Claimants, the undersigned Panel determined that Respondent Thomas H. Sunderland was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

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) Respondent Thomas H. Sunderland is liable to and shall pay Claimants Michael Dovsky and Sylvia Tillman \$15,125.00 in interest on principal 2 years, 10 months @9.314%.
- 2) Respondent Thomas H. Sunderland is liable to and shall pay Claimants Michael Dovsky and Sylvia Tillman \$1,550.00 in interest on unpaid principal from October 2000 to October 2002 @ 5%.
- 3) Respondent Thomas H. Sunderland is liable to and shall pay Claimants Michael Dovsky and Sylvia Tillman \$450.00 for reimbursement of amended tax returns preparation fees.
- 4) Respondent Thomas H. Sunderland is liable to and shall pay Claimants Michael Dovsky and Sylvia Tillman \$16,675.00 in punitive damages.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) 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
Waived by the Director of Arbitration	

Forum Fees and Assessments

The 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 Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$ 1,125.00/session	= \$ 1,125.00
Pre-hearing conference: June 28, 2001 1 session	

2 Pre-hearing conference sessions with the Panel @ \$ 600.00/session	= \$ 1,200.00
Pre-hearing conferences: June 3, 2002 1 session	
July 11, 2002 1 session	

2 Hearing sessions @ \$ 600.00/session	= \$ 1,200.00
Hearing: October 29, 2002 2 sessions	

Total Forum Fees	= \$ 3,525.00
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1. The Panel assessed \$ 1,162.50 of the forum fees jointly and severally to Claimants Michael Dovsky and Sylvia Tillman.
2. The Panel assessed \$ 1,162.50 of the forum fees jointly and severally to Respondents Jeffrey A. Vann, Garry H. Grace, and Thomas H. Sunderland.
3. The Panel assessed \$ 1,200.00 of the forum fees to Respondent Thomas H. Sunderland.

Fee Summary

1. Claimants Michael Dovsky and Sylvia Tillman are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,162.50
Balance Due NASD Dispute Resolution	= \$ 1,162.50

2. Respondents Jeffrey A. Vann, Garry H. Grace, and Thomas H. Sunderland are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,162.50
Balance Due NASD Dispute Resolution	= \$ 1,162.50

3. Respondent Thomas H. Sunderland is charged with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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.

ARBITRATION PANEL

Louis P. Davis	-	Public Arbitrator, Presiding Chair
James R. Collins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Louis P. Davis
Chair, Public Arbitrator

Signature Date

James R. Collins
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Louis P. Davis	-	Public Arbitrator, Presiding Chair
James R. Collins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Louis P. Davis
Chair, Public Arbitrator

11/14/02
Signature Date

James R. Collins
Non-Public Arbitrator

Signature Date

11/15/02
Date of Service

ARBITRATION PANEL

Louis P. Davis	-	Public Arbitrator, Presiding Chair
James R. Collins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Louis P. Davis
Chair, Public Arbitrator

Signature Date


James R. Collins
Non-Public Arbitrator

11/13/02
Signature Date

11/15/02
Date of Service