

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Richard F. Bisesi, (Claimant) vs. Lawrence M. Kavanaugh, Jr., (Respondent)

Case Number: 00-04863

Hearing Site: Buffalo, New York

REPRESENTATION OF PARTIES

Claimant, Richard F. Bisesi, hereinafter referred to as "Claimant": Roger B. Simon, Esq., Gibson, McAskill & Crosby, LLP, Buffalo, NY.

Respondent, Lawrence M. Kavanaugh, Jr., hereinafter referred to as "Respondent": David V. Jaworski, Esq., Law Offices of David V. Jaworski, Cheektowaga, NY.

CASE INFORMATION

Statement of Claim filed on or about: November 1, 2000.

Claimant signed the Uniform Submission Agreement: November 1, 2000.

Statement of Answer filed by Respondent on or about: January 17, 2000.

Respondent signed the Uniform Submission Agreement: January 17, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of partnership agreement; failure to account for commissions and other revenue; breach of contract; breach of fiduciary duty; and conversion.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent has acted in good faith at all times; Respondent has disclosed all commissions in question to Claimant; no written partnership agreement was ever executed by the parties; Claimant is not entitled to any commissions received after February 1, 2000; Respondent has never refused to account for commissions; and Claimant has refused to negotiate this matter in good faith.

RELIEF REQUESTED

Claimant requested:

- a. That Respondent be ordered to account for, and pay Claimant one half (1/2) of, the Partnership commissions and other Partnership revenues received by Respondent since December 16, 1999, the date the Partnership dissolved;
- b. Punitive damages;
- c. Costs and disbursements; and
- d. Attorneys' fees.

Respondent requested:

- a. That Claimant be ordered to disclose and account for all sums and commissions earned as a result of the recoding of securities business following the dissolution of the Partnership;
- b. A ruling from the Panel that Claimant be entitled to only one half (1/2) of the net securities commissions, after deduction of customary expenses, earned through February 1, 2000, and that Respondent be awarded any and all remaining commissions;
- c. That the Panel direct that the funds in the partnership account be returned to Respondent, subject to the terms of the Panel's final decision;
- d. That each and every demand for relief set forth in Claimant's Statement of Claim be denied; and
- e. That Respondent be granted an Award representing all of Respondent's costs and disbursements in this arbitration, together with attorneys' fees, incurred in defense of the allegations set forth in the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$39,110.00 as compensatory damages.
2. Claimant's request for punitive damages is hereby denied.
3. The amount of \$22,483.98 presently in the partnership account (as represented in Exhibit "I" of Respondent's Statement of Answer) shall be released to Respondent.
4. Each party shall bear its own legal fees.
5. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 250.00
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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, LaSalle St. Securities, Inc. ("LaSalle") is the Respondent's firm.

Member surcharge	= \$ 1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 2,000.00

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:

Three (3) Pre-hearing sessions with Panel x \$1,000.00 = \$ 3,000.00

Pre-hearing conferences:	July 16, 2001	1 session
	July 24, 2001	1 session
	December 11, 2001	1 session

Eight (8) Hearing sessions x \$1,000.00 = \$ 8,000.00

Hearing Dates:	February 7, 2002	2 sessions
	February 8, 2002	2 sessions
	March 26, 2002	2 sessions
	March 27, 2002	2 sessions

Total Forum Fees = \$11,000.00

The Panel has assessed all of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$ 1,250.00
Refund Due Claimant	= \$ 1,000.00

2. Respondent be and hereby is solely liable for:

<u>Forum Fees</u>	= \$11,000.00
Total Fees	= \$11,000.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$11,000.00

3. LaSalle be and hereby is solely liable for:

<u>Member Fees</u>	= \$ 3,800.00
Total Fees	= \$ 3,800.00
<u>Less payments</u>	= \$ 3,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

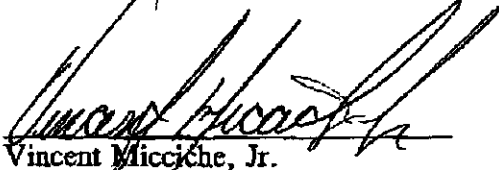
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Vincent Micciche, Jr.	-	Industry Arbitrator, Presiding Chair
Jeffrey Mark Schwartz	-	Industry Arbitrator
James Pasquale Nunciato	-	Industry 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.



Vincent Micciche, Jr.
Industry Arbitrator, Presiding Chair

4/22/2002

Signature Date

Jeffrey Mark Schwartz
Industry Arbitrator

Signature Date

James Pasquale Nunciato
Industry Arbitrator

Signature Date

May 2, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL


Vincent Micciche, Jr.	-	Industry Arbitrator, Presiding Chair
Jeffrey Mark Schwartz	-	Industry Arbitrator
James Pasquale Nunciato	-	Industry 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.

Vincent Micciche, Jr.
Industry Arbitrator, Presiding Chair

Signature Date


Jeffrey Mark Schwartz
Industry Arbitrator

April 29, 2002
Signature Date

James Pasquale Nunciato
Industry Arbitrator

Signature Date

May 2, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

Vincent Micciche, Jr.	-	Industry Arbitrator, Presiding Chair
Jeffrey Mark Schwartz	-	Industry Arbitrator
James Pasquale Nunciato	-	Industry Arbitrator

Concurring Arbitrators' Signatures

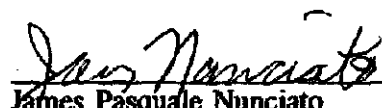
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Vincent Micciche, Jr.
Industry Arbitrator, Presiding Chair

Signature Date

Jeffrey Mark Schwartz
Industry Arbitrator

Signature Date


James Pasquale Nunciato
Industry Arbitrator

4/22/02
Signature Date

May 2, 2002
Date of Service (For NASD office use only)