

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between: Emily Kelly v. TradeStar Investments, Incorporated

Case Number: 00-05532

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant Emily Kelley hereinafter collectively referred to as "Claimant": Represented herself.

Respondent TradeStar Investments Incorporated hereinafter referred to as "Respondent": Angela Saccomandi, Esq. of Fiserv Securities, Inc., Philadelphia, Pennsylvania

CASE INFORMATION

Claimant filed a Statement of Claim on or about: December 18, 2000.
Claimants signed the Uniform Submission Agreement on December 11, 2000.
Claimant filed an Amended Statement of Claim file on June 4, 2001.

Statement of Answer and Counterclaim filed by Respondent Tradestar on or about: March 1, 2001.
Respondent Tradestar signed a Uniform Submission Agreement on February 5, 2001.

Respondent Fiserv Securities, David Stanley Turbeville and Gergeanne Mentlewski filed a Joint Statement of Answer and Motion to Dismiss on or about: July 11, 2001.
Respondents Fiserv Securities filed a Uniform Submission Agreement on July 11, 2001.
Respondents David Stanley Turbeville and Gergeanne Mentlewski filed a Uniform Submission Agreement on July 13, 2001.

CASE SUMMARY

Claimant asserted the following cause of action: Respondent TradeStar made false and defamatory statements on Claimant's U-5.

Unless specifically admitted in their Answer, Respondent denied the allegations set forth in the Statement of Claim and asserted the following affirmative defenses: Claimant has failed to state a claim upon which relief can be granted, Claimant has not suffered any

compensable damages, Respondent has not violated any rule, regulations or applicable law, and Claimant's actions against Respondent are barred by laches.

Respondent Tradestar filed a Counterclaim alleging the following causes of action: Misappropriation of funds from the corporate account of TradeStar, unauthorized use of corporate account.

Unless specifically admitted in her Answer, Claimant denied the allegations set forth in the Respondent's Counterclaim.

Claimant filed an amended Statement of claim on June 4, 2001 in which she asserted the following: Fiserv Securities, Inc., David Stanley Turbeville and Gergeanne Mentleewski are also liable for Claimant's damages and should be joined as Respondents. In addition, Claimant sought to add compensatory damages allegedly equal to her compensation package of 2,300.00, lost wages, and punitive damages. Claimant further requested that her U-5 statement and the claims filed against her by Respondent TradeStar be expunged from her central registry depository (CRD) records.

Respondents Fiserv Securities, Inc., David Stanley Turbeville and Gergeanne Mentleewski requested that the claims against them be dismissed.

RELIEF REQUESTED

Claimant Emily Kelly requested:

Compensatory Damages	\$ Unspecified
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Respondent TradeStar requested that the claims against them be dismissed.

Respondent Tradestar requested:

Compensatory Damages	\$ 6,800.00
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Claimant filed an amended Statement of claim on June 4, 2001 adding Respondents Fiserv Securities, Inc., and individual Respondents David Stanley Turbeville and Georgeanne Mentleewski. Claimant also requested additional compensatory damages and punitive damages for a sum not less than \$100,000.00. Claimant further requested that her

U-5 Statement be amended and the claims filed against her by Respondent TradeStar be expunged from her CRD records. The Panel granted Claimant/Counter Respondent Emily Kelly's motion to amend her complaint. Respondent Fiserv Securities, Inc., David Stanley Turbeville and Georgeanne Mentlewski Moved to dismiss the Amended Statement of Claim. The Panel denied Respondents motion to dismiss.

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. Claimant/Counter-Respondent Emily Kelly is liable for and shall pay to Counterclaimant TradeStar Investments, Incorporated the sum of (\$4, 000.00) four thousand dollars in compensatory damages.
2. At the time of the hearing the Panel dismissed Fiserv Securities, Inc., David Stanley Turbeville and Georgeanne Mentlewski as Respondents.
3. Respondent/ Counterclaimant Tradestar Investments, Incorporated is ordered to amend Claimant's U-5 to reflect the conclusions stated in paragraph (2) two of Respondent/ Counterclaimant's, November 1, 2000 letter to the NASD in TC # E06000573, addressed to special investigator Kimberly Shaw. In addition, if Respondent/Counterclaimant's investigation is now concluded they are ordered to so state.
4. The Panel has denied Claimant Emily Kelly's amended request for compensatory damages in the amount of \$2,300.00.
5. The Panel has denied Claimant Emily Kelly's request for an expungement of all references to this litigation from her CRD record.
6. Unless specifically enumerated herein, each party is liable for their own costs including but not limited to attorneys' fees.
7. Any relief not specifically awarded herein including punitive damages is 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
	(Waived)
Counterclaim filing fee	= \$ 500.00

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 persons at the time of the events giving

rise to the dispute. In this matter, the member firms are the Respondent firms, TadeStar Investments Inc., and Fiserv Securities.

Tradestar:

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

Fiserv:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 2,500.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing sessions with a single arbitrator x \$ 450.00 = \$ 450.00
Pre-hearing conferences:

June 18, 2001 1 session

One (1) Pre-hearing session with the Panel x \$ 1,125.00
May 25, 2001 1 session = \$ 1,125.00

Three (3) Hearing Sessions x \$1,125.00 = \$ 3,375.00
August 29, 2001 3 sessions

Total Forum Fees = \$ 4,950.00

The Panel has assessed \$ 4, 950.00 forum fees against Respondent TradeStar.

FEE SUMMARY

Claimant Emily Kelly is liable for:

Initial Filing Fee = \$250.00 (Waived)

Respondent TradeStar Investments Incorporated is liable for:

Member Fees	= \$ 3,800.00
Filing Fees	= \$ 500.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$ 9,250.00
Less Payments	= \$ 6,050.00

Balance Due to NASD Dispute Resolution = \$ 3,200.00

Respondent Fiserv Securities is liable for:

Member Fees = 4,600.00

Less Payments = 00

Balance due to NASD Dispute Resolution = \$ 4,600.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Michael E. McGown, Esq.	-	Public, Presiding Chair
Martha Failing, Esq.	-	Public Arbitrator
Sarah Catherine Whitmore	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael E. McGown, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Martha Failing, Esq.
Public Arbitrator

Signature Date

Sarah Catherine Whitmore
Industry Arbitrator

Signature Date

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

Nov 14 01 04:51p

Martha Failing PC

713-524-8358

p.2

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11/13/01 TUE 18:33 FAX

NASD REGULATION

Kelly v Tradestar
NASD-DR # 00-05532
p. 5 of 5

Balance due to NASD Dispute Resolution = \$ 4,600.00

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ARBITRATION PANEL

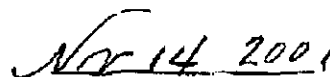
Michael E. McGowen, Esq.	-	Public, Presiding Chair
Martha Failing, Esq.	-	Public Arbitrator
Sarah Catherine Whitmore	-	Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

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Public Arbitrator, Presiding Chair

Signature Date


Martha Failing, Esq.
Public Arbitrator


Nov 14 2001
Signature Date

Sarah Catherine Whitmore
Industry Arbitrator

Signature Date

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Kelly v. Tradestar
NASD-DR # 00-05532
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Public Arbitrator
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Public Arbitrator

Signature Date


Sarah Catherine Whitmore
Industry Arbitrator

11-14-01

Signature Date

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Kelly v. TradeStar, et al

NASD-DR # 00-05532

Page 5 of 5

Fee Summary:

1. Claimants is liable for:

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2. Respondent TradeStar is liable for:

Member Fees	= \$ 3,800.00
Filing Fees	= \$ 500.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$ 9,250.00
<u>Less Payments</u>	<u>= \$ 6,050.00</u>
Balance Due to NASD Dispute Resolution	= \$ 3,200.00

3. Respondent Fiserv Securities is liable for:

Member Fees	= 4,600.00
<u>Less Payments</u>	<u>= 00</u>
Balance due to NASD Dispute Resolution	= \$ 4,600.00

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-

Public, Presiding Chair

Martha Failing, Esq.

-

Public Arbitrator

Sarah Catherine Whitmore

-

Non-Public Arbitrator

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Michael E. McGown, Esq.
Public Arbitrator, Presiding Chair

12-18-01

Signature Date

Martha Failing, Esq.
Public Arbitrator

Signature Date

Sarah Catherine Whitmore
Industry Arbitrator

Signature Date

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Kelly v. TradeStar, et al

NASD-DR # 00-05532

Page 5 of 5

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Kelly v. TradeStar, et al
NASD-DR # 00-05532
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