

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of Claimant

Robert W. Hill

Case No. 01-00056

Names of Respondents

Mason Hill & Co., Inc.
Adam H. Kaplan

Hearing Site: Charlotte, North Carolina

REPRESENTATION OF PARTIES

For Robert W. Hill, hereinafter referred to as "Claimant": John F. Hanzel, Esq. and Dianne M. Cavaliere, Esq., The Office of John F. Hanzel, P.A., Cornelius, North Carolina.

Mason Hill & Co., Inc. ("Mason Hill") did not appear.

Adam H. Kaplan ("Kaplan") did not appear.

CASE INFORMATION

Verified Statement of Claim filed on or about: January 3, 2001.

Claimant signed the Uniform Submission Agreement on: December 6, 2000.

Respondents Mason Hill and Kaplan did not file Statements of Answer or executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: 1) negligence; 2) omissions of facts; 3) unsuitability; 4) misrepresentation; 5) front running; 6) sale of respondents' own securities to Claimant; and 7) unauthorized trading. The causes of action relate to transactions made in Claimant's margin account and investments in shares of stock, namely WTS Lexington Healthcare Group, Inc, Retix, CAI Wireless Systems, Inc., Iomega Corp., Fruit of the Loom, Rockwell Medical Technologies, Inc., and DME Interactive Holdings.

RELIEF REQUESTED

Claimant requested in his Statement of Claim: 1) compensatory damages in the amount of \$124,760.74; 2) costs; 3) attorneys' fees; and 4) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Mason Hill and Kaplan did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and are bound by the determination of the Panel on all issues submitted.

Respondents Mason Hill and Kaplan did not appear. Upon review of the file and the representations made by/on behalf of Claimant, the Panel determined that Respondents Mason Hill and Kaplan have been properly served with the Statement of Claim and received due notice of the telephonic pre-hearing conferences conducted on June 21, 2001, November 16, 2001 and January 7, 2002, and that arbitration of the matter would proceed without Respondents Hill and Kaplan present, in accordance with the Code.

On or about November 5, 2001, Claimant filed his Motion to Compel Request for Documents and Information to Respondents and for Sanctions. Claimant requested the Panel to order Respondents Mason Hill and Kaplan to comply with Claimant's Request for Documents and Information and, Respondents' failing to comply within a reasonable period of time, to award Claimant his expenses, attorneys' fees and amount of his claim.

On November 16, 2001, Chairperson Barnhardt conducted a telephonic pre-hearing conference on Claimant's Motion to Compel Request for Documents and Information to Respondents and for Sanctions. Respondents Mason Hill and Kaplan did not appear. Chairperson Barnhardt noted that the pre-hearing conference would proceed under Rule 10318 of the Code. Claimant's representative confirmed his acceptance of Chairperson Barnhardt as the arbitrator for the pre-hearing conference.

After hearing arguments of Claimant's counsel and upon careful consideration of Claimant's Motion to Compel Request for Documents and Information to Respondents and for Sanctions, Chairperson Barnhardt, on behalf of the Panel, ordered: 1) Respondents Mason Hill and Kaplan to produce the documents and information requested by Claimant no later than 5:00 p.m. eastern time on December 7, 2001; 2) Respondents Mason Hill and Kaplan to produce documents and information contained in Lists 1, 3, 5, 7, 9, 11 and 13 of NASD Notice to Members 99-90; and 3) Claimant's request for sanctions against Respondents Mason Hill and Kaplan be reserved pending a hearing on the issues before the full arbitration panel at 10:00 a.m. eastern time on January 7, 2001.

On January 7, 2002, the Panel conducted a telephonic pre-hearing conference on

dispositive motions. Respondents Mason Hill and Kaplan did not appear. The Panel noted that the pre-hearing conference would proceed under Rule 10318 of the Code.

The Panel heard arguments of Claimant's counsel and carefully considered Claimant's Statement of Claim, Claimant's Motion to Compel Request for Documents and Information to Respondents and for Sanctions, and Respondents Mason Hill's and Kaplan's failure to comply with the discovery order entered on said motion. The Panel determined that respondents had notice that a ruling on said motion could result in an award and sanctions sought by Claimant. The Panel further determined that it had no reason to believe that notice of the telephonic pre-hearing conference had not been received by Respondents Mason Hill or Kaplan. Therefore, the Panel granted Claimant's motion for an award and for sanctions.

Claimant agreed that the Award may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, including Claimant's Verified Statement of Claim, Claimant's Motion to Compel Request for Documents and Information to Respondents and for Sanctions, the Panel's discovery order entered on November 16, 2001, and Respondent Mason Hill's and Kaplan's failure to comply with the Panel's discovery order, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Mason Hill and Kaplan are liable, jointly and severally, and shall pay to Claimant compensatory damages in the amount of \$124,760.74. Post-judgment interest shall accrue at the rate of 8.00% per annum in accordance with Rule 10330(h) of the Code until the Award is paid in full.
2. The Panel finds liability on Claimants' claims of negligence, unsuitability and unauthorized trading. The Panel does not find liability on Claimant's claims of front running, sale of respondents' own securities, omission of facts and misrepresentation.
3. Respondents Mason Hill and Kaplan are liable, jointly and severally, and shall pay to Claimant attorneys' fees in the amount of \$10,000.00. Attorneys' fees are awarded as sanctions against Respondents Mason Hill and Kaplan.
4. Respondents Mason Hill and Kaplan are liable, jointly and severally, and shall pay to Claimant \$1,425.00 as sanctions which is calculated as the total of \$300.00 for the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc. plus \$1,125.00 for the hearing session deposit previously paid by Claimant to NASD Dispute Resolution, Inc.

5. Any and all relief not specifically addressed herein 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	= \$300.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, Respondent Mason Hill is a party and, Respondent Mason Hill was a member firm at the time of service of the claim and at the time the parties were given the names of arbitrators to select. Therefore, Respondent Mason Hill is liable for the following member fees:

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

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

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 session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: November 16, 2001 1 session	

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences: June 21, 2001 1 session	
January 7, 2002 1 session	

Total Forum Fees	= \$2,700.00
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The Panel has assessed the total forum fees of \$2,700.00 jointly and severally to Respondents Mason Hill and Kaplan.

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.

There were no administrative costs incurred during these proceedings.

FEE SUMMARY

Claimant be and hereby is solely liable for:

Claim Filing Fee	= \$300.00
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Total Fees	= \$300.00
Less payments	= \$300.00
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent Mason Hill be and hereby is solely liable for:

Member Fees	= \$2,100.00
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Total Fees	= \$2,100.00
Less payments	= \$1,500.00
Balance Due NASD Dispute Resolution, Inc.	= \$600.00

Respondents Mason Hill and Kaplan be and hereby are jointly and severally liable for:

Forum Fees	= \$2,700.00
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Total Fees	= \$2,700.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,700.00

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

ARBITRATION PANEL

Zeb E. Barnhardt, Jr., Esq.
Louis M. Davis
Lynne T. Albert, Esq.

Public Arbitrator, Presiding Chair
Non-Public Arbitrator
Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Zeb E. Barnhardt, Jr., Esq.

Public Arbitrator, Presiding Chair

Signature Date

/s/

Louis M. Davis

Non-Public Arbitrator

Signature Date

/s/

Lynne T. Albert, Esq.

Public Arbitrator

Signature Date

February 8, 2002

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

Concurring Arbitrators' Signatures

Zeb E. Barnhardt, Jr.
Zeb E. Barnhardt, Jr., Esq.
Public Arbitrator, Presiding Chair

Jan. 28, 2002
Signature Date

Louis M. Davis
Non-Public Arbitrator

Signature Date

Lynne T. Albert, Esq.
Public Arbitrator

Signature Date

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

Concurring Arbitrators' Signatures

Zeb E. Barnhardt, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

Louis M. Davis

Louis M. Davis
Non-Public Arbitrator

1-29-02
Signature Date

Lynne T. Albert, Esq.
Public Arbitrator

Signature Date

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

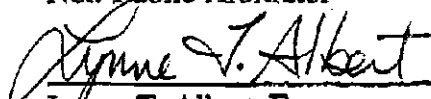
Concurring Arbitrators' Signatures

Zeb E. Barnhardt, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

Louis M. Davis
Non-Public Arbitrator

Signature Date



Lynne T. Albert, Esq.
Public Arbitrator

1/29/2002

Signature Date

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