

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Daniel M. Berger

Case Number: 01-00180

Names of the Respondents
William G. Brown
Russo Securities, Inc.
The Estate of Ferdinand Russo
Richard A. Russo

Hearing Site: Pittsburgh, PA

REPRESENTATION OF PARTIES

Claimant, Daniel M. Berger, hereinafter referred to as "Claimant", was represented by Stanley M. Stein, Esq., Feldstein Brinberg Stein & McKee, Pittsburgh, P.C., Pennsylvania.

Respondent, William G. Brown ("Brown"), was initially represented by Jerome Olitt, Arbitration and Mediation Specialists, Inc., Stamford, Connecticut, who later withdrew. Respondent Brown was represented at the hearing by Marc S. Gottlieb, Esq., Attorney at Law, New York, New York.

Respondents, Russo Securities, Inc. ("Russo Securities"), Ferdinand Russo ("F. Russo") and Richard A. Russo ("R. Russo"), hereinafter collectively referred to as "the Russo Respondents", were represented by Marc S. Gottlieb, Esq., Attorney at Law, New York, New York.

Respondent the Estate of Ferdinand Russo ("F. Russo Estate") was not represented by counsel and did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on January 8, 2001.

Claimant signed the Uniform Submission Agreement on January 5, 2000 and June 30, 2003.

Claimant filed a Motion to Amend the Statement of Claim on February 26, 2002.

Claimant filed an Amended Statement of Claim on September 13, 2002.

Claimant filed a Motion to Preclude Testimony or Evidence on October 16, 2002.

Claimant filed a Supplemental Motion to Preclude Testimony or Evidence From Respondent Russo Securities on March 4, 2002.

Statement of Answer filed by Respondent Brown on October 30, 2001.

Respondent Brown signed the Uniform Submission Agreement October 30, 2001.

Respondent Brown filed an Opposition to Claimant's Motion to Preclude on October 31, 2001.

Statement of Answer filed by Respondent Russo Securities on April 27, 2001.

A representative of Respondent Russo Securities signed the Uniform Submission Agreement and filed it on April 27, 2001.

Respondent Russo Securities filed responses to Claimant's Motion to Amend the Statement of Claim on March 22, 2002 and April 23, 2002.

Respondent F. Russo Estate did not file a Uniform Submission Agreement.

Respondent F. Russo Estate did not file an Answer.

Respondent R. Russo did not file a Uniform Submission Agreement.

Answer to Amended Statement of Claim filed by the Russo Respondents on October 29, 2002.

Respondent Russo Securities filed an Opposition to Claimant's Motion to Preclude on November 6, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; fraud; violation of the Pennsylvania Consumer Protection Law; breach of contract; negligence; control person liability; and, vicarious liability. The causes of action relate to the purchase and sale of World Diagnostics, Inc., Alfa International Corp., and E Street Access, Inc. stocks.

Unless specifically admitted in his Answer, Respondent Brown denied the allegations made in the Statement of Claim and asserted the following defenses, among others: assumption of the risk; ratification; failure to state a claim upon which relief may be granted; laches, waiver and estoppel; and, failure to mitigate.

Unless specifically admitted in their Answer, the Russo Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; ratification; statute of limitations; assumption of the risk; and, failure to mitigate.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 75,000.00
Punitive Damages	amount unspecified
Treble damages	\$225,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent Brown requested that all claims against him be dismissed together with any assessments of fees, costs and expenses.

The Russo Respondents requested that the Amended Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 17, 2002, the Panel granted Claimant's Motion to Amend the Statement of Claim adding F. Russo and R. Russo as Respondents.

The Panel denied Claimant's Motions to Preclude Testimony and Evidence.

Respondent F. Russo died shortly before the matter went to hearing. Claimant moved the Panel to substitute The Estate of Ferdinand Russo as Respondent for Ferdinand Russo. Marc Gottlieb, Respondent F. Russo's former counsel, objected to the substitution. The Panel granted the motion.

Neither Respondent F. Russo Estate nor Respondent R. Russo filed with NASD Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code of Arbitration Procedure and are bound by the determination of the Panel on all issues submitted.

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's claims are denied in their entirety;
2. The parties' shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive and treble damages, is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution 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 firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Russo Securities is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 10-12, 2002, adjournment requested by Claimant	= \$ 1,125.00
April 2-4, 2003, adjournment requested by Claimant	-waived

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Three (3) Pre-hearing sessions with Panel @ \$ 1,125.00	= \$ 3,375.00
Pre-hearing conferences:	
October 10, 2001	1 session
October 23, 2001	1 session
October 22, 2002	1 session

Two (2) Hearing sessions @ \$ 1,125.00	= \$ 2,250.00
Hearing Date:	
May 20, 2003	2 sessions

Total Forum Fees	= \$ 5,625.00
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1. The Panel has assessed \$1,875.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,875.00 of the forum fees to Respondent Brown.
3. The Panel has assessed \$1,875.00 of the forum fees jointly and severally to Respondents Russo Securities, F. Russo Estate and R. Russo.

Fee Summary

1. Claimant is assessed:	
Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 1,875.00
Total Fees	= \$ 3,300.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00

2. Respondent Brown is assessed:

Forum Fees	= \$ 1,875.00
Total Fees	= \$ 1,875.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00

3. Respondent Russo Securities is assessed:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,600.00

4. Respondents Russo Securities, F. Russo Estate and R. Russo are jointly and severally assessed:

Forum Fees	= \$ 1,875.00
Total Fees	= \$ 1,875.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Stanley L. Pollock	-	Public Arbitrator, Presiding Chairperson
Lisa M. Kafer	-	Public Arbitrator, Panelist
John H. Ewing	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Stanley L. Pollock
Public Arbitrator, Presiding Chairperson

Signature Date

Lisa M. Kafer
Lisa M. Kafer
Public Arbitrator, Panelist

7/1/03
Signature Date

John H. Ewing
Non-Public Arbitrator, Panelist

Signature Date

07/01/2003
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 01-00180

Award Page 6

Concurring Arbitrators' Signatures

Stanley L. Pollock
Public Arbitrator, Presiding Chairperson

Signature Date

Lisa M. Kafer
Public Arbitrator, Panelist

Signature Date

John H. Ewing, Jr.
John H. Ewing
Non-Public Arbitrator, Panelist

7-1-03
Signature Date

07/01/2003
Date of Service (For NASD Dispute Resolution office use only)