

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jeffrey Grodko, (Claimant) vs. Montrose Capital Management Ltd., Alexander Wescott & Co., Inc., and Epifanio Almadovar, (Respondents)

Case Number: 01-00275

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Jeffrey Grodko, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, Montrose Capital Management Ltd. ("Montrose"), did not make an appearance in this matter.

Respondent, Alexander Wescott & Co., Inc. ("Wescott"): Carl I. Kaminsky, Esq., a sole practitioner, New York, NY.

Respondent, Epifanio Almadovar ("Almadovar"), did not make an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: January 18, 2001.

Amended Statement of Claim filed on or about: September 6, 2001.

Second Amended Statement of Claim filed: May 10, 2002.

Claimant signed the Uniform Submission Agreement: January 16, 2001.

Montrose did not file a Statement of Answer or sign a Uniform Submission Agreement.

Statement of Answer filed by Wescott on or about: March 20, 2002.

Wescott did not sign a Uniform Submission Agreement.

Almadovar did not file a Statement of Answer or sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: improper execution of a sell order; breach of contract; negligence; failure to supervise; breach of fiduciary duty; misrepresentations/non-disclosures; and omission of facts. Claimant's claim involved stock identified by the symbol NXNW.

Unless specifically admitted in its Answer, Wescott denied the allegations made in the Statement of Claim and asserted the following defense: Wescott was not Claimant's broker.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$50,000.00.

Wescott requested that Claimant's claims be denied in their entirety, together with such other and further relief in favor of Wescott that the Arbitrator may deem just, proper, and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Wescott appeared at the April 26, 2002 and May 10, 2002 hearings, but failed to appear at the August 22, 2002 pre-hearing conference and the September 18, 2002 hearing. Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Wescott received due notice of the hearings, and that arbitration of the matter would proceed without Wescott present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

On December 7, 2001, the United States District Court for the Southern District of New York issued an Order staying all matters against Respondent Montrose pursuant to the Securities Investor Protection Act ("SIPA").

On the last hearing date, September 18, 2002, Claimant was the only party to appear. Claimant had attempted to add Epifanio Almadovar as a Respondent, but had not yet effected good service on him of the Statement of Claim and Amended Statement of Claim pursuant to Rule 10328 of the Code. The Arbitrator adjourned the hearing and gave Claimant until October 9, 2002 to effect service upon Almadovar. Claimant was directed to either provide NASD Dispute Resolution with proof of service or advise NASD Dispute Resolution that he was unable to serve Almadovar by that date.

Claimant has not provided NASD Dispute Resolution with any information concerning service upon Almadovar following the Arbitrator's order. Therefore, the Arbitrator has decided to dismiss this arbitration in its entirety, without prejudice.

Montrose and Wescott did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Arbitrator on all issues submitted.

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, as well as Claimant's failure to provide proof of service upon Almadovar, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety, without prejudice.
2. All other requests for relief are hereby denied.

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 = \$ 175.00

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 person at the time of the events giving rise to the dispute. In this matter, Montrose Capital Management Ltd. and Alexander Wescott & Co., Inc. are parties.

Montrose Capital Management Ltd.

Member surcharge = \$ 800.00

Alexander Wescott & Co., Inc.

Member surcharge = \$ 800.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings:

March 8 & 11, 2002, adjournment by Wescott	= \$ 450.00
Apr. 12 & 15, 2002, adjournment by Wescott	= \$ 900.00

Forum Fees and Assessments

The Arbitrator 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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
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Pre-hearing conferences:	September 5, 2001	1 session
	August 22, 2002	1 session

Four (4) Hearing sessions x \$450.00	= \$1,800.00
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Hearing Dates:	April 26, 2002	2 sessions
	May 10, 2002	1 session
	September 18, 2002	1 session

Total Forum Fees	= \$2,700.00
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1. The Arbitrator has assessed \$900.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$1,800.00 of the forum fees against Wescott.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,075.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 450.00

2. Montrose is solely liable for:

Member Fees	= \$ 800.00
Total Fees	= \$ 800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 800.00

3. Wescott is solely liable for:

Member Fees	= \$2,400.00
Adjournment Fees	= \$1,350.00
<u>Forum Fees</u>	<u>= \$1,800.00</u>
Total Fees	= \$5,550.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$5,550.00

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

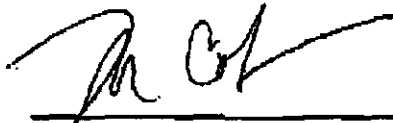
ARBITRATION PANEL

Marti Copleman, Esq.

Public Arbitrator

Arbitrator's Signature

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.



Marti Copleman, Esq.
Public Arbitrator

2-6-03

Signature Date

February 7, 2003

Date of Service (For NASD Dispute Resolution use only)