

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Sanders Terkell, (Claimant) vs. Brill Securities, Inc. and Kevin G. Major, (Respondents)

Case Number: 01-00519

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Sanders Terkell, hereinafter referred to as "Claimant": Martin J. Siegel, Esq., a sole practitioner, New York, NY.

Respondents, Brill Securities, Inc. ("Brill") and Kevin G. Major ("Major"), hereinafter collectively referred to as "Respondents": Barry R. Temkin, Esq., Jacobowitz, Garfinkel & Lesman, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 30, 2001.

Claimant signed the Uniform Submission Agreement: January 25, 2001.

Joint Statement of Answer filed by Brill and Major on or about: May 14, 2001.

Brill did not sign a Uniform Submission Agreement.

Statement of Answer filed by Major on or about: February 20, 2001.

Major signed the Uniform Submission Agreement: February 20, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; unauthorized trading; excessive trading; failure to supervise; and fraudulent conduct. Claimant's claim involved unspecified securities.

Unless specifically admitted in their Joint Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant ratified the transactions complained of in the Statement of Claim; Claimant is barred by the doctrines of estoppel, laches, and unclean hands; Claimant failed to mitigate his damages; Claimant's claims are barred to the extent of his comparative negligence; and Claimant assumed the risks associated with the transactions of which he now complains.

RELIEF REQUESTED

In his Statement of Claim, Claimant requested:

- a. Compensatory damages in the amount of \$45,000.00;
- b. Disgorgement of approximately \$18,000.00 in excessive commissions;
- c. Punitive damages in an amount to be determined by the Panel; and
- d. Attorneys' fees.

During the hearings in this matter, the Panel allowed Claimant to verbally amend his claim, reducing the total amount requested as compensatory damages and disgorgement of commissions from \$63,000.00 to \$51,788.25.

Respondents requested that Claimant's claims be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearings in this matter, Respondents made a Motion to Dismiss. The Panel denied said Motion.

Brill did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel 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, 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 hereby denied in their entirety.

2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondents Brill and Major's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Brill and Major must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. 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	= \$ 225.00
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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, Brill Securities, Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

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:

One (1) Pre-hearing session with Panel x \$750.00	= \$ 750.00
Pre-hearing conference: November 13, 2001	1 session

Four (4) Hearing sessions x \$750.00		= \$3,000.00
Hearing Dates:	February 14, 2002	2 sessions
	February 15, 2002	2 sessions
Total Forum Fees		= \$3,750.00

1. The Panel has assessed \$1,875.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,875.00 of the forum fees against Brill.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= <u>\$1,875.00</u>
Total Fees	= \$2,100.00
<u>Less payments</u>	= <u>\$ 975.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,125.00

2. Brill be and hereby is solely liable for:

Member Fees	= \$3,100.00
<u>Forum Fees</u>	= <u>\$1,875.00</u>
Total Fees	= \$4,975.00
<u>Less payments</u>	= <u>\$1,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,375.00

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

ARBITRATION PANEL

Krishna M. Vempaty, Esq.	-	Public Arbitrator, Presiding Chair
Edward Baer, Esq.	-	Public Arbitrator
Jettie K. Thomas, Esq.	-	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.

Krishna M. Vempaty
Krishna M. Vempaty, Esq.
Public Arbitrator, Presiding Chair

3/5/02
Signature Date

Edward Baer, Esq.
Public Arbitrator

Signature Date

Jettie K. Thomas, Esq.
Industry Arbitrator

Signature Date

March 13, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL

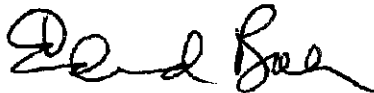
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Krishna M. Vempaty, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Edward Baer, Esq.
Public Arbitrator

3-6-2002

Signature Date

Jettie K. Thomas, Esq.
Industry Arbitrator

Signature Date

March 13, 2002

Date of Service (For NASD office use only)

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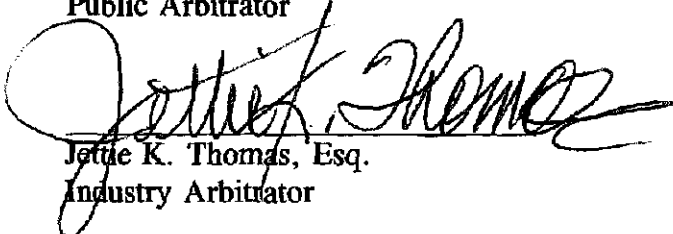
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Signature Date

Edward Baer, Esq.
Public Arbitrator

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Jettie K. Thomas, Esq.
Industry Arbitrator



Signature Date

March 13, 2002

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