

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Pamela J. Leavitt, (Claimant) vs. Cantone Research, Inc., Anthony J. Cantone, Christine L. Cantone, (Respondents)

Case Number: 01-00728

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Pamela Leavitt ("Claimant"): Robert S. Moraff, Esq., Robert S. Moraff, PC, Bloomfield, NJ.

Respondents, Cantone Research, Inc. ("Cantone Research"), Anthony J. Cantone ("A. Cantone"), Christine L. Cantone ("C. Cantone"), hereinafter collectively referred to as "Respondents": Walter L. Baumgardner, Esq., Musilli, Baumgardner, Wagner & Parnell, PC, St. Clair Shores, MI.

**CASE INFORMATION**

Statement of Claim filed on or about: February 13, 2001

Claimant signed the Uniform Submission Agreement: February 12, 2001

Statement of Answer filed by Respondents on or about: July 25, 2001

Respondent Cantone Research signed the Uniform Submission Agreement: September 24, 2001

Respondent A. Cantone signed the Uniform Submission Agreement: July 3, 2001

Respondent C. Cantone signed the Uniform Submission Agreement: June 25, 2001

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading on margin; breach of contract; breach of implied covenant of good faith and fair dealing; breach of fiduciary duty; unsuitability; fraud; conversion; misrepresentations and/or omissions of material fact; failure to supervise.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages to compensate for her losses and lost investment opportunity, plus interest and attorneys' fees. In addition, Claimant requested that the Panel assess punitive damages against the Respondents.

Respondents requested dismissal of Claimant's claims in its entirety, and reimbursement for all costs of these proceedings, including attorneys' fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing, counsel for Respondent C. Cantone made a Motion to Dismiss her as a Respondent. The motion was denied by the Panel.

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. Respondents Cantone Research and A. Cantone be and hereby are jointly and severally liable and shall pay to Claimant compensatory damages in the amount of \$10,000.00.
2. Claimant's request for interest is denied.
3. Claimant's request for punitive damages is denied.
4. All other requests for relief are 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
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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. In this matter, Cantone Research, Inc., is a party.

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

#### **Adjournment Fees**

Adjournments requested during these proceedings:

April 29, 30, 2002, adjournment by Respondents	= \$ Waived
May 7, 2002, adjournment by Respondents	= \$ 1,000.00

#### **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 \$ 1,000.00	= \$ 1,000.00
Pre-hearing conference: January 14, 2002 1 session	
Three (3) Hearing sessions x \$ 1,000.00	= \$ 3,000.00
Hearing Dates: May 6, 2002 1 session	
May 16, 2002 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 4,000.00

The Panel has assessed the entire amount of the forum fees jointly and severally against the Respondents.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 0.00
Total Fees	= \$ 250.00
Less payments	= \$ 1,250.00
Refund Due Claimant	= \$ 1,000.00

2. Respondent Cantone Research be and hereby is solely liable for:

Member Fees	= \$ 3,800.00
Total Fees	= \$ 3,800.00
Less payments	= \$ 3,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents Cantone Research, A. Cantone and C. Cantone be and hereby are jointly and severally liable for:

Adjournment Fee	= \$ 1,000.00
Forum Fees	= \$ 4,000.00
Total Fees	= \$ 5,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,000.00

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

**ARBITRATION PANEL**

Arnold Wagner	-	Public Arbitrator, Presiding Chair
Anthony Michael Sabino, Esq.	-	Public Arbitrator
Alice J. Dutton	-	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.



Arnold Wagner  
Public Arbitrator, Presiding Chair

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Signature Date

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Anthony Michael Sabino, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Alice J. Dutton  
Industry Arbitrator

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Signature Date

June 11, 2002  
Date of Service (For NASD office use only)

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