

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Mark Procunier, Trustee of the MBP Trust

and

01-01326
Phoenix, Arizona

Name of Respondents

Fiserv Correspondent Services, Inc.
Hampton-Porter Investment Bankers
Andrew S. Louis
Gregory DuBois Walker

REPRESENTATION OF PARTIES

Mark Procunier, Trustee of the MBP Trust ("**Claimant**") was represented by David R. Jordan, Esq. and Christopher D. Lonn, Esq., Titus, Brueckner & Berry, Scottsdale, Arizona.

Fiserv Correspondent Services, Inc. ("**Respondent**") was represented by Steven D. Plissey, Esq., Williams, Youle & Koenigs, Denver, Colorado.

Hampton-Porter Investment Bankers ("**Respondent Hampton-Porter**") did not participate in this matter.

Andrew S. Louis ("**Respondent**") appeared *pro se*.

Gregory DuBois Walker ("**Respondent Walker**") did not participate in this matter.

CASE INFORMATION

The Statement of Claim was filed on or about March 16, 2001. First Amended Statement of Claim was filed on or about December 17, 2001. Claimant's Response in Opposition to Respondent Fiserv Correspondent Services, Inc.'s Motion to Dismiss was filed on or about June 27, 2001. Submission Agreement of Claimant Mark Procunier, Trustee of the MBP Trust was signed on March 14, 2001.

Request to Dismiss Statement of Claim and Answer of Respondent Fiserv Correspondent Services, Inc. was filed on or about May 4, 2001. Reply Supporting Request to Dismiss Statement of Claim was filed on or about August 2, 2001. FSI's Answer to First Amended Statement of Claim was filed

on or about December 28, 2001. Submission Agreement of Respondent Fiserv Correspondent Services, Inc. was signed on March 28, 2001 by Kent J. Lund.

Respondent Andrew S. Louis submitted a letter dated June 19, 2001.

CASE SUMMARY

Claimant submitted the following summary:

In his amended statement of claim, Claimant Mark Procnier, as Trustee for the MBP Trust alleged that Respondent Fiserv is liable to him for negligence and negligent misrepresentation and is liable for Claimant's attorneys' fees in this arbitration proceeding. The original statement of claim also named as Respondents Andrew Louis, Hampton Porter Investment Bankers, LLC, and Greg Walker. Claimant has settled with those parties, and they should properly be dismissed from this proceeding.

Respondent Fiserv denied the allegations set forth in the Statement of Claim. Respondent Fiserv specifically stated the losses incurred in Claimant's account were the result of market conditions and the advice of Respondents Hampton-Porter and Louis, not a result of any action or inaction on the part of Fiserv.

RELIEF REQUESTED

Claimant requested the following Award: for actual damages in the amount of no less than \$1,016,393.00, plus losses incurred in securities liquidated after the account was transferred, and market opportunity losses, in a total amount to be determined by the arbitration panel; for interest on the principal invested at the legal rate of 10% per annum from the dates of Claimant's investments until paid in full; for Claimants' reasonable attorneys' fees, costs and other expenses incurred and accruing herein; for pre-judgment and post-judgment interest; and other relief as the arbitration panel may deem appropriate.

Respondent Fiserv requested that the claims asserted against it be denied, and that it be awarded attorneys' fees, expert witness fees, costs and that other relief be granted as the panel deems appropriate.

OTHER ISSUES CONSIDERED & DECIDED

The parties were advised of the Arbitration Panel's decision to deny the Motion to Dismiss asserted on behalf of Respondent Fiserv and the granting of leave to file an Amended Statement of Claim by letter dated November 27, 2001.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter shall be and hereby are denied and dismissed in their entirety.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firms are Fiserv Correspondent Services, Inc. and Hampton-Porter Investment Bankers.

Member surcharge = \$2,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$4,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing session(s) with Panel x \$1,200.00	= \$2,400.00
Pre-hearing conference(s):	
August 15, 2001	1 session
November 20, 2001	1 session
Six (6) Hearing sessions x \$1,200.00	= \$7,200.00
Hearing Date(s):	
March 25, 2002	2 sessions
March 26, 2002	2 sessions
<u>March 27, 2002</u>	<u>2 sessions</u>
Total Forum Fees	= \$9,600.00

The Arbitration Panel has assessed \$9,600.00 of the forum fees to Mark Procunier, Trustee of the MBP Trust.

Fee Summary

Claimant, Mark Procunier, Trustee of the MBP Trust, shall be and hereby is liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 9,600.00
Total Fees	= \$10,100.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 8,400.00

Respondent, Fiserv Correspondent Services, Inc., shall be and hereby is liable for:

Member Fees	= \$7,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$7,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Hampton-Porter Investment Bankers, shall be and hereby is liable for:

Member Fees	= \$7,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$7,600.00

Less payments

Balance Due NASD Dispute Resolution, Inc.

= \$ 0.00

= \$7,600.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Brian R. Warnock, Esq. - Public Arbitrator, Presiding Chair

Samuel L. McClaren, Esq. - Public Arbitrator

Paul J. Phillips, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Brian R. Warnock

Brian R. Warnock, Esq.
Public Arbitrator, Presiding Chair

May 2, 2002

Signature Date

/s/ Samuel L. McClaren

Samuel L. McClaren, Esq.
Public Arbitrator

May 8, 2002

Signature Date

/s/ Paul J. Phillips, Jr.

Paul J. Phillips, Jr.
Non-Public Arbitrator

May 11, 2002

Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 01-01326

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Less payments

Balance Due NASD Dispute Resolution, Inc.

= \$ xxx.00

= \$ xxx.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Brian R. Warnock, Esq. - Public Arbitrator, Presiding Chair

Samuel L. McClaren, Esq. - Public Arbitrator

Paul J. Phillips, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Brian R. Warnock, Esq.
Public Arbitrator, Presiding Chair5-2-02

Signature Date

Samuel L. McClaren, Esq.
Public Arbitrator_____
Signature Date_____
Paul J. Phillips, Jr.
Non-Public Arbitrator_____
Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 01-01326

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Less payments

Balance Due NASD Dispute Resolution, Inc.

= \$ xxx.00

= \$ xxx.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Brian R. Warnock, Esq. - Public Arbitrator, Presiding Chair

Samuel L. McClaren, Esq. - Public Arbitrator

Paul J. Phillips, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Brian R. Warnock, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Samuel L. McClaren, Esq.
Public Arbitrator5/10/02
Signature DatePaul J. Phillips, Jr.
Non-Public Arbitrator

Signature Date

FROM : JP--Technical
WED 14:04 FAX

FAX NO. : 602 866 3806

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NASD Dispute Resolution, Inc.
Arbitration No. 01-01326
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Less payments

Balance Due NASD Dispute Resolution, Inc.

= \$ xxx.00

= \$ xxx.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Brian R. Warnock, Esq. - Public Arbitrator, Presiding Chair
Samuel L. McClaren, Esq. - Public Arbitrator
Paul J. Phillips, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Brian R. Warnock, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Samuel L. McClaren, Esq.
Public Arbitrator

Signature Date

Paul J. Phillips, Jr.
Non-Public Arbitrator

5-11-02
Signature Date