

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joshua Stephens v. Balis, Lewittes & Coleman, Inc., Charles Balis, Mathew Coleman, Sr. and Mathew Coleman, Jr.

Case Number: 01-02051

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants:

Elizabeth Lowery
Fields, Fehn & Sherwin
Los Angeles, California

For Respondents:

Balis, Lewittes & Coleman, Inc.

Nicholas P. Iavarone
Bellows and Bellows, PC
Chicago, Illinois

Charles Balis

Nicholas P. Iavarone
Bellows and Bellows, PC
Chicago, Illinois

Mathew Coleman, Sr.

Robert L. Pike
Law Office of Robert L. Pike
Irvine, California

Mathew Coleman, Jr.

Robert Heim
Meyers & Heim LLP
New York, New York

CASE INFORMATION

Statement of Claim filed on or about April 19, 2001.

Claimant's Uniform Submission Agreement signed on or about April 19, 2001.

Statement of Answer filed by Respondents Balis, Lewittes & Coleman, Inc., Charles Balis and Mathew Coleman, Sr. filed on or about June 19, 2001.

Respondent Balis, Lewittes & Coleman, Inc. Uniform Submission Agreement signed on or about June 15, 2001.

Respondent Charles Balis Uniform Submission Agreement signed on or about June 15, 2001.

Respondent Mathew Coleman, Sr. Uniform Submission Agreement signed on or about June 15, 2001.

CASE SUMMARY

Claimant alleged the following claims:

1. Breach of Contract;
2. Breach of Fiduciary Duty;
3. Negligence;
4. Suitability;
5. Misrepresentation; and
6. Violation of the Securities Exchange Act of 1934

Respondents Balis, Lewittes & Coleman, Inc., Charles Balis and Mathew Coleman Sr. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested \$120,000 in compensatory damages, return on the principal amount invested, return of all commission and management fees charged, punitive damages as determined by the Panel, and costs, including attorney's fees.

Respondents Balis, Lewittes & Coleman, Inc., Charles Balis and Mathew Coleman, Sr. requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Mathew Coleman, Jr. did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Claimant dismissed Respondents Mathew Coleman, Sr. and Mathew Coleman, Jr. with prejudice on July 8, 2002.

At the July 9, 2002 evidentiary hearing, Respondents Balis, Lewittes & Coleman, Inc. and Charles Balis asserted a counterclaim for costs, including attorney's fees.

The parties 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, testimony, and evidence presented at the hearing, the Panel 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 attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

| | |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 300.00 |
|--------------------------|-------------|

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Balis, Lewittes & Coleman, Inc. is a party and the following fees are assessed:

| | |
|----------------------------|----------------------|
| Member Surcharge | = \$ 1,500.00 |
| Pre-Hearing Process Fee | = \$ 600.00 |
| <u>Hearing Process Fee</u> | <u>= \$ 2,500.00</u> |
| Total Member Fees | = \$ 4,600.00 |

Adjournment Fees

The following adjournment fees are assessed:

| | |
|---|---------------|
| February 28, 2002 and March 1, 2002, adjournment requested by Mathew Coleman, Jr. | = \$ 1,125.00 |
|---|---------------|

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A session is any meeting between the parties and the Panel or Chairperson, including a pre-hearing conference, that lasts four (4) hours or less. The following fees are assessed

| | |
|---|----------------------|
| 2 Pre-hearing conference sessions with the Panel @ \$1,125.00/session | = \$ 2,250.00 |
| Pre-hearing conferences: November 1, 2001 1 session | |
| February 13, 2002 1 session | |
| 2 Hearing sessions @ \$1,125/session | = \$ 2,250.00 |
| Hearing: July 9, 2002 2 sessions | |
| Total Forum Fees | = \$ 4,500.00 |

1. The Panel assessed \$ 2,250.00 of the forum fees to Claimant.

2. The Panel assessed \$ 2,250.00 of the forum fees jointly and severally to Respondents Balis, Lewittes & Coleman, Inc., Charles Balis and Mathew Coleman, Sr.

Fee Summary

1. Claimant, Joshua Stephens, is charged with the following fees and costs:

| | |
|--|-----------------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 2,250.00 |
| Total Fees | = \$ 2,550.00 |
| <u>Less payments</u> | <u>= \$(1,425.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 1,125.00 |

2. Respondent, Balis, Lewittes & Coleman, Inc., is charged with the following fees and costs:

| | |
|--|-----------------------|
| Member Fees | = \$ 4,600.00 |
| <u>Less payments</u> | <u>= \$(3,600.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 1,000.00 |

3. Respondent, Mathew Coleman, Jr., is charged with the following fees and costs:

| | |
|--|----------------------|
| Adjournment Fee | = \$ 1,125.00 |
| <u>Less payments</u> | <u>= \$ (0.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 1,125.00 |

4. Respondents, Balis, Lewittes & Coleman, Inc., Charles Balis and Mathew Coleman, Sr., are charged jointly and severally with the following fees and costs:

| | |
|--|----------------------|
| Forum Fees | = \$ 2,250.00 |
| Balance Due NASD Dispute Resolution | = \$ 2,250.00 |

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


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ARBITRATION PANEL

Daniel K. Donahue, Esq.
Laurel Litman Gothelf, MPH
Ronald E. Ogden

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Daniel K. Donahue, Esq.
Chair, Public Arbitrator

8/16/02
Signature Date

Laurel Litman Gorhelf, MPH
Public Arbitrator

Signature Date

Ronald E. Ogden
Non-Public Arbitrator

Signature Date

August 16, 2002
Date of Service
(NASD use only)

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| Laurel Littman Gothelf, MPH | - | Public Arbitrator |
| Ronald E. Ogden | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

Daniel K. Donahue, Esq.
Chair, Public Arbitrator

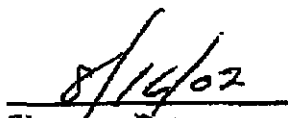
Signature Date

Laurel Littman Gothelf, MPH
Public Arbitrator

Signature Date



Ronald E. Ogden
Non-Public Arbitrator



Signature Date

August 14, 2002
Date of Service
(NASD use only)