

Stipulated Award

NASD

In the Matter of the Arbitration Between:

John Battaglia, Claimant v. PaineWebber, Inc., Isadore Friedman and Teresa Mangines, Respondents

Case Number: 01-02394

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For John Battaglia, hereinafter referred to as "Claimant": Darren C. Blum, Esq., Law Offices of Darren C. Blum, Plantation, FL.

For PaineWebber, Inc. ("PW"), Isadore Friedman ("Friedman") and Teresa Mangines ("Mangines"), hereinafter referred to as "Respondents": Patricia Cowart, Senior Associate General Counsel, PW, Fort Lauderdale, FL.

CASE INFORMATION

Statement of Claim filed on or about: May 1, 2001.

Claimant signed the Uniform Submission Agreement: April 9, 2001.

Respondents' Answer filed on or about: August 9, 2001.

Respondents did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant alleged the following causes of action: 1) breach of fiduciary duties; 2) breach of contract; 3) fraud; 4) unsuitability; 5) violation of Florida Statutes Section 517; 6) negligence; and 7) negligent supervision, hiring and retention of employees. The causes of action relate, but are not limited to, option trades in DIGX and Cisco.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested in his Statement of Claim: 1) compensatory damages in the amount of \$700,000.00, plus interest at the legal rate from the date of purchase or reasonable market return; 2) rescission; 3) attorneys' fees; 4) an unspecified amount of punitive damages; 5) costs; 6) and such other relief that the Panel deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim; 2) costs; 3) attorneys' fees; 4) the expungement of all references to the above captioned arbitration from Respondent Friedman and Mangines' registration records maintained by the NASD Central Registration Depository ("CRD"); and 5) such other relief as the panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD properly executed submissions to arbitration, but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about April 4, 2002, arbitrator Thomas Icard ("Icard") withdrew from the Panel. Thereafter, the parties agreed to go forward with the remaining two arbitrators.

On or about May 21, 2002, Claimant informed NASD that he settled his claims against all Respondents.

On or about August 12, 2002, NASD received a Stipulation to Dismiss and Expunge Registered Representatives' Records together with a proposed Award, wherein the parties agreed that this matter be dismissed, with prejudice as to all Respondents; that said dismissal shall bar the bringing of any action based on or including the claims or counterclaims for which this action has been or could have been brought against Respondents by Claimant or against Claimant by the Respondents; and that this matter be expunged from Respondents Friedman and Mangines' CRD record.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings, the Stipulation to Dismiss and Expunge Registered Representatives' Records and the proposed Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) All Claims against Respondents are dismissed, with prejudice.
- 2) The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Friedman and Mangines' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Friedman and Mangines must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3) Each party shall bear their respective costs and attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 375.00
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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. PaineWebber, Inc. is a party to this dispute and was an NASD member at the time the following fees were assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

Adjournment Fees

No adjournment fees are assessed.

Injunctive Relief Fees

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference with the Chair @ \$450.00	= \$ 450.00
Pre-hearing conference: January 17, 2002 1 session	
One (1) Pre-hearing conference with the Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: January 8, 2002 1 session	
<u>Total Forum Fees</u>	<u>= \$ 1,650.00</u>

The Panel has assessed forum fees of \$ 825.00 to Claimant.

The Panel has assessed forum fees of \$ 825.00 to Respondent PW.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for the following fees and costs:

Initial Filing Fee	= \$	375.00
<u>Forum Fees</u>	= \$	825.00
Total Fees	= \$	1,200.00
<u>Less payments</u>	= \$	1,200.00
Balance Due NASD	= \$	0.00

Respondent PW is solely liable for the following fees and costs:

Forum Fees	= \$	825.00
<u>Member Fees</u>	= \$	6,100.00
Total Fees	= \$	6,925.00
<u>Less payments</u>	= \$	6,925.00
Balance Due NASD	= \$	0.00

ARBITRATION PANEL

<i>Elliot Leitner</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Donald R. McGahan</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/
Elliot Leitner
Chair, Public Arbitrator

Signature Date

_____/s/
Donald R. McGahan
Non-Public Arbitrator

Signature Date

November 8, 2002
Date of Service (For NASD office use only)

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FL ARBITRATION

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Elliot Leitner

Chair, Public Arbitrator

11/6/02

Signature Date

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NASD

Arbitration No. 01-02394

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Signature Date

11-05-02

Signature Date

Date of Service (For NASD office use only)