

Award
NASD, Inc. Dispute Resolution

In the Matter of the Arbitration Between:

First Union Securities, Inc. Claimant

vs.

Bradley R. James Respondent

Case Number: 01-02442 Hearing Site: Richmond, VA

REPRESENTATION OF PARTIES

Claimant First Union Securities, Inc. ("Claimant") was represented by John E. MacDonald, Esq. of the law firm of Stark & Stark, Lawrenceville, NJ.

Bradley R. James ("Respondent") was represented by Perry A. Pirsch, Esq. of the law firm of Pirsch & Associates, LLC, Alexandria, VA.

CASE INFORMATION

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

Amended Statement of Claim filed on or about: June 1, 2001

Claimant's response to Respondents Amended Answer and Amended Counterclaim filed on or about: November 15, 2001

Claimant's Amended Answer to Respondent's Amended Counterclaim filed on or about: December 10, 2001

Claimant signed the Uniform Submission Agreement: May 2, 2001

Statement of Answer and Counterclaim filed by Respondent on or about: November 2, 2001

Amended Answer and Amended Counterclaim filed by Respondent on or about: November 6, 2001.

Respondent signed the Uniform Submission Agreement: October 30, 2001

CASE SUMMARY

Claimant alleged that Respondent executed a trade for his clients in a domestic fund. Claimant alleged that the clients were non-resident aliens who were unaware of the tax implication of

executing a trade on a domestic fund. Claimant alleged that a few weeks later, Respondent sold the domestic fund. Claimant credited the clients for their losses and canceled the original trade. Claimant alleged that as a result of the cancellation, Respondent incurred a mutual fund loss and that Respondent has failed to recover the losses resulting from Respondent's error.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following counterclaim: that the losses Claimant complains of were caused by Claimant. Respondent asserted that Claimant entered into a series of purchases and sales without obtaining the clients' permission or consent. Respondent asserted that Claimant failed to recognize or find that the clients' Form W-8 was on file with Claimant. Respondent asserted that Claimant unnecessarily withheld proceeds from the sale of the domestic fund. Respondent maintained that Claimant owes him gross commissions in the amount of \$17,522.27.

Claimant denied any liability to Respondent.

RELIEF REQUESTED

In its pleading, Claimant requested:

Compensatory Damages	\$47,324.90
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

In his pleading, Respondent requested:

Compensatory Damages	\$17,522.27
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator has considered Claimant's Motion for Reconsideration of the arbitrator's May 22, 2002 Order requesting that the order to pay sanction to Respondent in the amount of \$1,475 be vacated. The arbitrator has denied this motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That Respondent's counterclaim is denied in its entirety.
3. That the parties shall bear their respective attorneys' fees, except as determined in the arbitrator's May 22, 2002 Order in which Claimant was directed to pay to Respondent as a sanction \$1,475 in attorney's fees.
4. That the parties shall bear their respective costs, except as Fees are specifically addressed below.
5. All other requests for relief not specifically addressed herein are denied in their entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$1,000
Counterclaim filing fee	= \$ 125

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 800
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$1,000

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450	= \$ 450
Pre-hearing conference: February 4, 2002	1 session

Two (2) Hearing sessions x \$450		= \$1,800
Hearing Date:	June 3, 2002	2 sessions
	June 4, 2002	2 sessions
Total Forum Fees		= \$2,250

1. The Arbitrator has assessed forum fees in the amount of \$1,125 against Claimant.
2. The Arbitrator has assessed forum fees in the amount of \$1,125 against Respondent.

Fee Summary

Claimant is assessed the following fees:

Initial Filing Fee	= \$1,000
Member Fees	= \$2,400
<u>Forum Fees</u>	<u>= \$1,125</u>
Total Fees	= \$4,525
<u>Less payments</u>	<u>= \$3,850</u>
Balance Due NASD Regulation, Inc.	= \$ 675

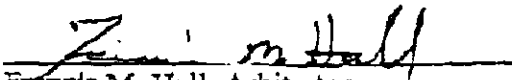
Respondent is assessed the following fees:

Counterclaim Filing Fee	= \$ 125
<u>Forum Fees</u>	<u>= \$1,125</u>
Total Fees	= \$1,250
<u>Less payments</u>	<u>= \$1,100</u>
Balance Due NASD Regulation, Inc.	= \$ 150

All balances are due and payable to NASD Regulation, Inc.

NASD, Inc. Dispute Resolution
Arbitration No. 01-02442
Award Page 5

Arbitrator's Signature


Francis M. Hall, Arbitrator
Non Public Arbitrator

June 25, 2002
Date Signed

June 26, 2002
Date of Service (for NASD office use only)