

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Greg McMahon and GE Associates, LLC

and

01-02520
Phoenix, Arizona

Name of Respondents

Joseph Charles & Associates, Inc.
Charles J. Fabiano

REPRESENTATION OF PARTIES

Greg McMahon and GE Associates, LLC ("Claimants") were represented by Michael Salcido, Esq., Renaud, Cook & Drury, P.A., Phoenix, Arizona.

Joseph Charles & Associates, Inc. ("Respondent Joseph Charles") filed for bankruptcy on or about November 1, 2000.

Charles J. Fabiano ("Respondent") did not participate in the hearing of this matter.

CASE INFORMATION

The Statement of Claim was filed on or about May 14, 2001. Motion to bar pursuant to Rule 10314(b)(2)(c) was filed on or about August 13, 2001. Motion for Default Award was filed on or about September 30, 2002. Submission Agreement of Claimants Greg McMahon, individually and on behalf of GE Associates, LLC was signed on April 16, 2001.

No responsive pleading was filed by Respondent Charles J. Fabiano.

CASE SUMMARY

Claimants alleged that Respondent Fabiano made unsuitable recommendations to purchase stock in Spectrian Corp., Powerwave Technologies, and Newcom Inc. on margin. In addition, Claimants alleged that Respondent Fabiano misstated or omitted to state material facts in connection with these investments.

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RELIEF REQUESTED

Claimants requested an award as follows:

- A. Compensatory damages of at least \$17,500.00.
- B. Pre and Post judgment interest until the Award is paid in full.
- C. "Opportunity" or "Benefit of the Bargain" losses based on how the McMahon account would have performed had it been properly managed.
- D. Disgorgement of all commissions, mark ups, profits and margin interest charged to his account.
- E. Costs and attorneys' fees incurred herein.
- F. Punitive damages in an amount to be determined at the hearing.
- G. Such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrator has determined that Respondent Charles J. Fabiano has been properly served with the Statement of Claim pursuant to Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrator has also determined that Respondent Charles J. Fabiano has received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent Charles J. Fabiano did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the Code and is bound by the determination of the arbitrator on all issues submitted.

AWARD

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

1. Respondent Charles J. Fabiano shall be and hereby is liable for and shall pay to Claimants Greg McMahon and GE Associates, LLC the sum of \$16,254.28 (Sixteen Thousand Two Hundred Fifty Four Dollars and Twenty Eight Cents) as compensatory damages.
2. Respondent Charles J. Fabiano shall be and hereby is liable for and shall pay to Claimants Greg McMahon and GE Associates, LLC the sum of \$8,127.14 (Eight Thousand One Hundred Twenty Seven Dollars and Fourteen Cents) as attorneys' fees.

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3. 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.
4. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$125.00

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:

One (1) Hearing session(s) with a single arbitrator x \$450.00 = \$450.00
Hearing session(s) December 2, 2002 1 session

Total Forum Fees = \$450.00

The Arbitration Panel has assessed \$450.00 of the forum fees to Charles J. Fabiano.

Fee Summary

Claimants, Greg McMahon and GE Associates, LLC, shall be and hereby is liable for:

Initial Filing Fee	= \$ 125.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 125.00
<u>Less payments</u>	= \$ 575.00
Balance to be refunded by NASD Dispute Resolution	= \$ 450.00

Respondent, Charles J. Fabiano, shall be and hereby is liable for:

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Forum Fees= \$ 450.00

Balance Due NASD Dispute Resolution

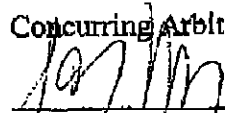
= \$ 450.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

S. Jeffrey Minker - Public Arbitrator, Presiding Chair

Concurring Arbitrators:



S. Jeffrey Minker
Public Arbitrator, Presiding Chair

12/2/02
Signature Date