

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Arthur Michael Pagnotta and Raymond Morton, Claimants v. Mutual Securities, Inc.,
Respondent

Case Number: 01-03094

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants / Counter-Respondents:

H. Thomas Fehn, Esq.
Fields, Fehn & Sherwin
Los Angeles, California

For Respondent / Counter-Claimant:

Carl J. Carlson, Esq.
Carlson & Fabish, P.S.
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: June 4, 2001

Claimants' Joint Uniform Submission Agreement signed: June 4, 2001

Statement of Answer and Counterclaim filed by Respondent: September 19, 2001

Respondent's Uniform Submission Agreement signed: September 5, 2001

CASE SUMMARY

Claimants alleged negligence, breach of contract, and misrepresentation, involving withheld commissions.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and filed a Counterclaim alleging breach of contract.

RELIEF REQUESTED

Claimants requested \$68,000.00 in actual damages.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety, and in its Counterclaim, requested \$37,400.00 in actual damages, interest at 12% per annum, and costs, including attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

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. Claimants' claims are denied in their entirety.
2. The Panel finds that Claimants / Counter-Respondents are liable to Respondent / Counter-Claimant in the sum of \$16,618.00 in damages. However, since Respondent / Counter-Claimant has already withheld Claimants / Counter-Respondents' commissions in the sum of \$16,618.00, no additional monies are owed by either party.
3. The parties shall bear their respective costs, including attorney's fees.
4. All other relief 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	= \$ 225.00
Respondent's Counterclaim	= \$ 1,000.00

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Mutual Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
Total Member Fees	= \$ 3,100.00

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:

1 Pre-hearing conference session with the Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: April 11, 2002 1 session

2 Hearing sessions @ \$750.00/session = \$ 1,500.00
Hearing: September 30, 2002 2 sessions

Total Forum Fees = \$ 2,250.00

1. The Panel assessed \$ 1,125.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 1,125.00 of the forum fees to Respondent.

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 sundry other requests.

Respondent requested 19 copies at \$0.50 each: = \$ 9.50

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Claim Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,350.00
Less Payments	= \$ (975.00)
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Respondent is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,100.00
Forum Fees	= \$ 1,125.00
Administrative Costs	= \$ 9.50
Total Fees	= \$ 5,234.50
Less payments	= \$(4,300.00)
Balance Due NASD Dispute Resolution	= \$ 934.50

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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.

ARBITRATION PANEL

Robert D. Sussin, Esq.	-	Non-Public Arbitrator, Presiding Chair
David D. Holt	-	Non-Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert D. Sussin, Esq.
Chair, Non-Public Arbitrator

Signature Date

David D. Holt
Non-Public Arbitrator

Signature Date

William A. Husa
Non-Public Arbitrator


Signature Date

Date of Service

ARBITRATION PANEL

Robert D. Sussin, Esq.	-	Non-Public Arbitrator, Presiding Chair
David D. Roth	-	Non-Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert D. Sussin, Esq.
Chair, Non-Public Arbitrator

10 / 30 / 02
Signature Date

David D. Roth
Non-Public Arbitrator

Signature Date

William A. Husa
Non-Public Arbitrator

Signature Date

10 / 30 / 02
Date of Service

ARBITRATION PANEL

Robert D. Sussin, Esq.	-	Non-Public Arbitrator, Presiding Chair
David D. Hloh	-	Non-Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert D. Sussin, Esq.
Chair, Non-Public Arbitrator

Signature Date


David D. Hloh
Non-Public Arbitrator

10-29-02
Signature Date

William A. Husa
Non-Public Arbitrator

Signature Date

10/30/02
Date of Service

ARBITRATION PANEL

Robert D. Sussin, Esq.	-	Non-Public Arbitrator, Presiding Chair
David D. Holt	-	Non-Public Arbitrator
William A. Huse	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert D. Sussin, Esq.
Chair, Non-Public Arbitrator

Signature Date

David D. Holt
Non-Public Arbitrator

Signature Date

William A. Huse

William A. Huse
Non-Public Arbitrator

10-30-02

Signature Date

10/30/02

Date of Service