

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dunklin McCondichie and Billie McCondichie (Claimants) vs. Elliot Nadel, Stephen Comeau, and Tarpon Scurry Investments (Respondents)

Case Number: 01-03112

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Associated Persons and Member

REPRESENTATION OF PARTIES

Claimants Dunklin McCondichie ("D. McCondichie") and Billie McCondichie ("B. McCondichie") hereinafter collectively referred to as "Claimants": David Crystal II, Esq., Gilbride, Tusa, Last & Spellance LLC, New York, NY.

Respondent Elliot Nadel ("Nadel") appeared *pro-se*.

Respondent Stephen Comeau ("Comeau") appeared *pro-se*.

Respondent Tarpon Scurry Investments ("Tarpon Scurry") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: June 8, 2001.

D. McCondichie signed the Uniform Submission Agreement: June 8, 2001.

B. McCondichie signed the Uniform Submission Agreement: June 8, 2001.

Statement of Answer filed by Respondent Nadel on or about: October 13, 2002.
Nadel did not submit a Uniform Submission Agreement.

Statement of Answer filed by Respondent Comeau on or about: October 1, 2002.
Comeau signed the Uniform Submission Agreement: September 13, 2002.

Respondent Tarpon Scurry did not submit a Statement of Answer or a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: fraud, churning, suitability, misrepresentations, and failure to supervise. The causes of action relate to equities and options.

Unless specifically admitted in his Answer, Respondent Nadel denied the allegations made in the Statement of Claim.

Unless specifically admitted in his Answer, Respondent Comeau denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$2,162,283.90, punitive damages in the amount of \$500,000.00, commissions, attorneys' fees, and forum fees.

Respondent Nadel requested dismissal of the Statement of Claim in its entirety.

Respondent Comeau requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by the Claimants, the undersigned arbitrators ("Panel") determined that Respondent Tarpon Scurry has been properly served with the Statement of Claim and received due notice of the hearing and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Tarpon Scurry did not file with NASD Dispute Resolution a properly executed Uniform 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.

Respondent Nadel did not file with NASD Dispute Resolution a properly executed ~~Uniform Submission Agreement~~ but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

By letter dated February 12, 2003 Claimants' counsel notified NASD Dispute Resolution ("NASD DR") that Claimant Dunklin McCondichie passed away. Claimants requested a stay of the arbitration until a fiduciary for Claimant Dunklin McCondichie's estate was named. By letter dated February 25, 2003 NASD DR informed the parties that the Panel granted Claimants' request for a stay of the arbitration. Claimants did not notify NASD DR of a named fiduciary for Dunklin McCondichie's estate. By letter dated June 30, 2004 to Claimants' counsel, NASD DR requested that Claimants advise NASD DR of

the status of the case. NASD DR did not receive a response to the June 30, 2004 letter. By letter dated August 31, 2004 to Claimants' counsel, NASD DR notified Claimants that Claimants must submit, by September 22, 2004, dates of Claimants' availability to reschedule the hearings or NASD DR will assume that Claimants no longer wish to pursue their claims. NASD DR did not receive a response to the August 31, 2004 letter. Pursuant to the Panel's Order, NASD DR mailed a March 27, 2006 letter to Claimant Billie McCondichie, personally, indicating the Panel's decision to dismiss Claimants' claims if Claimant Billie McCondichie does not advise NASD DR of the status of her case by May 1, 2006. NASD DR did not receive a response to the March 27, 2006 letter.

The parties have 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed in their entirety without prejudice.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied without prejudice.

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	= \$ 500.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: November 13, 2002 1 session	
Total Forum Fees	= \$ 1,200.00

1. The Panel has assessed \$600.00 of the forum fees to Claimants, jointly and severally.

2. The Panel has assessed \$600.00 of the forum fees to Respondent Nadel, Respondent Comeau, and Respondent Tarpon Scurry, jointly and severally.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$	500.00
Forum Fees	= \$	600.00
Total Fees	= \$	1,100.00
Less payments	= \$	1,700.00
Refund Due Claimants	= \$	600.00

2. Respondent Nadel, Respondent Comeau, and Respondent Tarpon Scurry are jointly and severally liable for:

Forum Fees	= \$	600.00
Total Fees	= \$	600.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	600.00

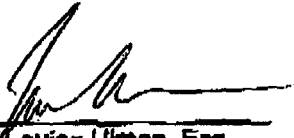
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jan Louise Ulman, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert W. Sharer	-	Public Arbitrator
Ellen S. Hexter	-	Non-Public Arbitrator

Concerning Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Jan Louise Ulman, Esq.
Public Arbitrator, Presiding Chairperson

7/9/06

Signature Date

Robert W. Sharer
Public Arbitrator

Signature Date

Ellen S. Hexter
Non-Public Arbitrator

Signature Date

July 18, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

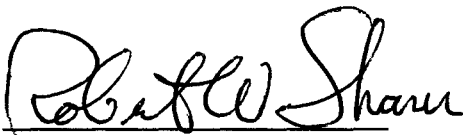
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Concurring Arbitrators' Signatures

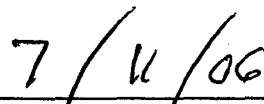
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Robert W. Sharer
Public Arbitrator



Signature Date

Ellen S. Hexter
Non-Public Arbitrator

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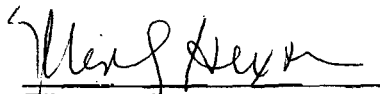
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Jan Louise Ulman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert W. Sharer
Public Arbitrator

Signature Date



Ellen S. Hexter
Non-Public Arbitrator

7/17/06

Signature Date

July 18, 2006
Date of Service (For NASD Dispute Resolution use only)