

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Acument Securities, Inc.
f/k/a Thomas F. White & Co., Inc.

Case Number: 02-02474

Name of the Respondent
Thomas J. Heffernan

Hearing Site: Baltimore, MD

Nature of the Dispute: Terminated Member v. Associated Person.

REPRESENTATION OF PARTIES

Claimant, Acument Securities, Inc. f/k/a Thomas F. White & Co., Inc., hereinafter referred to as "Claimant", was represented by Michael Bolgatz, Esq., Acument Securities, Inc., Berkeley, California.

Respondent, Thomas J. Heffernan, hereinafter referred to as "Respondent", was represented by Bruce E. Kauffman, Esq., Kauffman and Forman, P.A., Towson, Maryland.

CASE INFORMATION

Statement of Claim filed on April 26, 2002.

A representative of Claimant signed the Uniform Submission Agreement on April 19, 2002.

Motion to Dismiss filed by Respondent on July 9, 2002.

Respondent signed the Uniform Submission Agreement on June 28, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract and fraud. The causes of action relates to the purchase and sale of Exodus Communications, Inc. common stock and an indemnification agreement.

Unless specifically admitted in his Motion to Dismiss, Respondent denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages
Interest

\$ 48,759.67
amount unspecified

Attorneys' Fees
Other Costs

amount unspecified
amount unspecified

Respondent requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on the merits, Respondent made an oral motion to dismiss, which the Arbitrator denied.

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, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay to Claimant the sum of \$28,667.00 in compensatory damages;
2. Respondent is liable to and shall pay to Claimant the sum of \$1,000.00 in reimbursement for the initial-claim filing fee;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 1,000.00

Member Fees

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

Accordingly, Claimant is a party.

Member surcharge = \$ 875.00
Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 1000.00

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(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) Pre-hearing session with a single arbitrator @ \$ 450.00 = \$ 450.00
Pre-hearing conference: September 16, 2003 1 session

Two (2) Hearing sessions @ \$ 450.00 = \$ 900.00
Hearing Dates: February 3, 2004 2 sessions

Total Forum Fees = \$ 1,350.00

The Arbitrator has assessed \$ 1,350.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	<u>= \$ 2,625.00</u>
Total Fees	= \$ 3,625.00
<u>Less payments</u>	<u>= \$ 4,075.00</u>
Refund owed Claimant	= \$ 450.00

2. Respondent is assessed and shall pay:

<u>Forum Fees</u>	<u>= \$ 1,350.00</u>
Total Fees	= \$ 1,350.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,350.00

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

ARBITRATOR

Kurt Matthew Schwartz

- Non-Public Arbitrator, Presiding Arbitrator

Arbitrator's Signature

Kurt Matthew Schwartz

Kurt Matthew Schwartz
Non-Public Arbitrator, Presiding Arbitrator

3/4/04
Signature Date

March 4, 2004
Date of Service (For NASD Dispute Resolution office use only)

THOMAS JOSEPH HEFFERNAN

Plaintiff

vs.

ACUMENT SECURITIES, INC.
f/k/a THOMAS F. WHITE & CO., INC.

Defendant

* IN THE CIRCUIT COURT FOR

* BALTIMORE COUNTY

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Case No: 03-C-04-003480

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ORDER

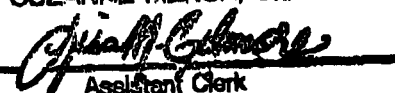
Upon review of the Consent to Vacate Arbitration Award, it is this ✓ day of August, 2004, **ORDERED**, by the Circuit Court of Maryland for Baltimore County, That the Arbitration Award entered by Kurt Matthew Schwartz on March 4, 2004 in the matter of Acument Securities, Inc. vs. Thomas Joseph Heffernan case no: 02-0474, be and is hereby **VACATED**. A copy of such Arbitration Award is attached hereto and marked as Exhibit 1.


JUDGE

True Copy Test

SUZANNE MENCH, Clerk

Per


Assistant Clerk