

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 02-04608

Carl A. Zeiler

Names of the Respondents

Hearing Site: Boca Raton, Florida

First Montauk Securities Corp.
and Paul Leahy

REPRESENTATION OF PARTIES

For Carl A. Zeiler, hereinafter referred to as "Claimant": Russell C. Silvergate, Esq. and Robert H. Rex, Esq., Dickenson, Murphy, Rex and Sloan, Boca Raton, Florida.

For First Montauk Securities Corp. ("Montauk") and Paul Leahy ("Leahy"), hereinafter collectively referred to as "Respondents": Joel Levinson, Assistant General Counsel, First Montauk Securities Corp., Red Bank, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: August 6, 2002.

Claimant signed the Uniform Submission Agreement: July 16, 2002.

Statement of Answer filed by Respondents on or about: October 8, 2002.

Respondent Montauk signed the Uniform Submission Agreement: October 8, 2002.

Respondent Leahy did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: excessive trading; violation of the Florida Securities Investor Protection Act; common law fraud; breach of fiduciary duty; violation of Florida's Prudent Investor Rule; negligent failure to supervise; and, negligence. The causes of action relate to the purchase and sale of shares of Advanced Micro, Auspex Systems, OTG Software, Pumatech, Rainbow Tech, Sirius Sat. Radio, Sun Micro, Verity and Viewpoint stock in Claimant's account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant was suitable for the trading in his account in light of his investment experience and financial profile; Claimant authorized and/or ratified the activity in his account; the trading activity in the account was consistent with Claimant's investment objectives; Claimant failed to establish a cause of action for churning; Respondent Montauk properly supervised the account; Claimant failed to state a claim upon which relief could be granted; the claims are barred by the applicable statutes of limitations; the

claims are barred by the doctrine of equitable estoppel; the claims are barred by the doctrine of waiver; Respondents acted reasonably and in good faith; Claimant failed to mitigate and/or minimize his losses; and, any damages suffered by Claimant were caused, in whole or in part, by the primary, active and affirmative negligence, carelessness, assumption of risk and/or other culpable conduct of Claimant.

RELIEF REQUESTED

Claimant requested the following: compensatory damages in an amount of at least \$57,738.00; interest; all of Claimant's costs, expenses and disbursements, including expert witness fees; punitive damages in an amount to be determined by the Panel; and, such other relief as the Panel deemed just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Leahy did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, is bound by the determinations of the Panel on all issues submitted.

On or about August 27, 2003, Claimant notified NASD Dispute Resolution that the claims against Respondent Leahy were withdrawn, with prejudice. In addition, Claimant advised that this matter had been settled and the parties would be submitting a proposed Stipulated Award for expungement.

On or about September 8, 2003, the parties submitted a proposed Stipulated Award with a request that the Panel enter said Stipulated Award expunging all references to this matter from Respondent Leahy's records maintained by the NASD Central Registration Depository ("CRD").

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, and in lieu of a hearing and upon the request by all parties for entry of a Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The parties have entered into a confidential settlement agreement;

Claimant has dismissed all claims against Respondents, with prejudice;

Any and all claims for relief not specifically addressed herein are denied;

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Leahy's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Leahy must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive; and,

All parties to the above captioned arbitration agree to bear their own costs and 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 = \$ 225.00

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. In this matter, the member firm is a party.

Member surcharge = \$1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,700.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: March 26, 2003 1 session

Total Forum Fees = \$ 750.00

Pursuant to the agreement of the parties, the Panel has assessed \$375.00 of the forum fees to

Claimant and \$375.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Retained Hearing Session Deposit pursuant to Rule 10332(f)	= \$ 375.00

Total Fees	= \$ 975.00
Less payments	= \$ 975.00

Balance Due NASD Dispute Resolution	= \$ 0.00
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Respondent Montauk is solely liable for:

Member Fees	= \$3,550.00
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Total Fees	= \$3,550.00
Less payments	= \$3,550.00

Balance Due NASD Dispute Resolution	= \$ 0.00
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Respondents are jointly and severally liable for:

Forum Fees	= \$ 375.00
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Total Fees	= \$ 375.00
Less payments	= \$ 0.00

Balance Due NASD Dispute Resolution	= \$ 375.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Howard N. Kahn, Esq.	-	Public Arbitrator, Presiding Chair
William J. Callahan, CPA	-	Public Arbitrator
Nicholas A. Natale	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

09/18/03

Howard N. Kahn, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

09/19/03

William J. Callahan, CPA
Public Arbitrator

Signature Date

/s/

09/25/03

Nicholas A. Natale
Non-Public Arbitrator

Signature Date

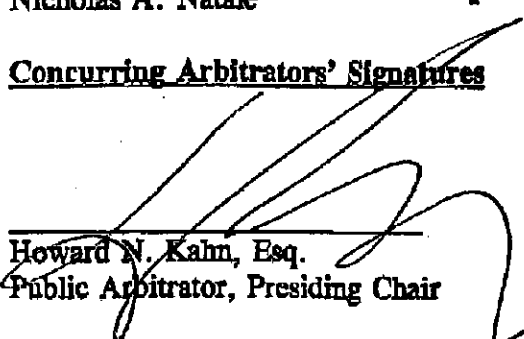
09/25/03

Date of Service (For NASD Dispute Resolution office use only)

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Nicholas A. Natale	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Howard N. Kahn, Esq.
Public Arbitrator, Presiding Chair

9/10/03
Signature Date

William J. Callahan, CPA
Public Arbitrator

Signature Date

Nicholas A. Natale
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date



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Public Arbitrator

9-19-03

Signature Date

Nicholas A. Natale
Non-Public Arbitrator

Signature Date

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