

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Fred C. Johnson

Case Number: 02-04795

Name of the Respondent
McDonald Investments, Inc.

Hearing Site: Indianapolis, Indiana

NATURE OF DISPUTE

Customer vs. Member Firm

REPRESENTATION OF PARTIES

Mark E. Maddox, Esq. of the law firm Maddox Hargett & Caruso, P.C. located in Fishers, Indiana, represented Claimant, Fred C. Johnson, hereinafter referred to as "Claimant."

Thomas E. Satrom, Esq. of the law firm Locke Reynolds, LLP, located in Indianapolis, Indiana, represented Respondent, McDonald Investments, Inc. ("McDonald Investments") hereinafter referred to as "Respondent."

CASE INFORMATION

Statement of Claim filed on or about August 14, 2002.

Claimant, Fred C. Johnson, signed the Uniform Submission Agreement on August 8, 2002.

Statement of Answer filed by Respondent, McDonald Investments, on November 8, 2002.

Respondent, McDonald Investments, signed the Uniform Submission Agreement on October 1, 2002.

CASE SUMMARY

Claimant, Fred C. Johnson, asserted the following causes of action: suitability, failure to supervise, misrepresentations, breach of contract, fraud, breach of fiduciary duty, negligence, forgery, violations of Indiana Securities Act and violations of the NASD Conduct Rules.

Claimant asserted that funds invested with Respondent, McDonald Investments, was unsuitable and did not meet his "long term growth with income" objectives, and that forgery was involved in unauthorized trading of "speculative risk" securities.

Unless specifically admitted in its Answer, Respondent, McDonald Investments, denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant was a sophisticated investor who was also a licensed broker/dealer; the management of his account was entirely suitable based on Claimant's background and financial situation; any losses were caused by market conditions beyond the control of Respondent; and the "risky" option writing which Claimant asserts was unsuitable was approved by Claimant and resulted in net income in excess of \$99,000 during the period of management.

RELIEF REQUESTED

Claimant, Fred C. Johnson, requested:

Compensatory Damages	\$267,000.00
Punitive Damages	unspecified
Treble Damages	unspecified
Interest	8%
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	

Respondent, McDonald Investments, requested dismissal of all claims, recovery of its costs and attorneys' fees, and for such other and further relief as the arbitrators deem just and proper.

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

1. Any and all claims asserted by Claimant, Fred C. Johnson, are denied.
2. Parties shall bear their own costs, including attorneys' fees, except as specified herein.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$ 300.00
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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, McDonald Investments, Inc. is a party and is therefore assessed the following fees:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Fees	= \$5,200.00

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, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: April 29, 2003	1 session
September 18, 2003	1 session
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: November 12, 2003	2 sessions
November 13, 2003	2 sessions
Total Forum Fees	= \$5,400.00

1. The Panel has assessed 50% of the total forum fees in the amount of \$2,700.00 solely to the Claimant, Fred C. Johnson.
2. The Panel has assessed 50% of the total forum fees in the amount of \$2,700.00 solely to the Respondent, McDonald Investments, Inc.

Fee Summary

1. Claimant, Fred C. Johnson, is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,700.00
Total Fees	= \$3,000.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,575.00

2. Respondent, McDonald Investments, is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$2,700.00
Total Fees	= \$7,900.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$4,350.00

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

ARBITRATION PANEL

Sherrill Wm. Colvin, Esq.	-	Public Arbitrator, Presiding Chairperson
Stanley G. Rives, Ph.D.	-	Public Arbitrator
Michael J. Kelley, CPA, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sherrill Wm. Colvin, Esq.
Public Arbitrator, Presiding Chairperson

12/26/03
Signature Date

Stanley G. Rives, Ph.D.
Public Arbitrator

12/22/03
Signature Date

Michael J. Kelley, CPA, CFP
Non-Public Arbitrator

12/23/03
Signature Date

12/23/03
Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

Stanley G. Rives, Ph.D.

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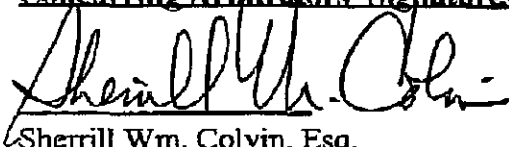
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