

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James Victorine (Claimant) v. Datek Online Financial Services, LLC (Respondent)

Case Number: 02-04937

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant James Victorine ("Victorine") hereinafter referred to as "Claimant": Matthew Tuttle, Esq. and Sara B. Davis, Esq., Perkins, Smith & Cohen, LLP, Boston, MA.

Respondent Datek Online Financial Services, LLC ("Datek") hereinafter referred to as "Respondent": G. Thomas Fleming, Esq., and Robert J. Girard III, Esq., Jones, Bell, Abbott, Fleming & Fitzgerald, L.L.P., Los Angeles, CA.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2002.

Claimant signed the Uniform Submission Agreement: August 10, 2002.

Statement of Answer filed by Respondent on or about: January 6, 2003.

Respondent did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of the covenant of good faith and fair dealing; violations of securities laws and anti-fraud provisions; violations of state anti-fraud securities laws; violation of Massachusetts Consumer Protection Act; common law fraud and deceit; negligence; breach of fiduciary duty; failure to supervise; control person liability; and respondeat superior. Claimant's claim involved shares of Provident Financial Corporation ("PVN") stock.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$103,484.00; consequential damages; punitive damages in such amount that the Panel deems just and proper; attorneys' fees; arbitration costs; and any other relief that the arbitrators may deem just

and proper.

Respondent requested that Claimant take nothing by reasons of this Statement of Claim; that Claimant be required to pay all costs incurred by Respondent in these proceedings, including but not limited to all forum and hearing fees; and for such other and further relief as the arbitrators deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent 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, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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, and 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. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein 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, Datek Online Financial Services, LLC is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: October 14, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00
Pre-hearing conference: May 9, 2003 1 session

Five (5) Hearing sessions @ \$1,125.00 = \$5,625.00
Hearing Dates: November 5, 2003 2 sessions
November 6, 2003 2 sessions
December 19, 2003 1 session

Total Forum Fees = \$7,200.00

1. The Panel has assessed \$3,600.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,600.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,600.00
Total Fees	= \$3,900.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$2,475.00
2. Respondent is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$3,600.00
Total Fees	= \$8,800.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$3,600.00

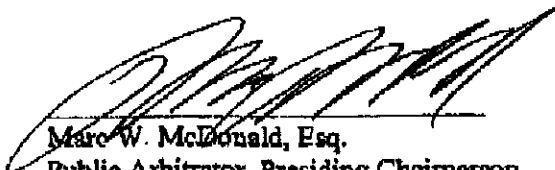
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Marc W. McDonald, Esq.	-	Public Arbitrator, Presiding Chair
Stacey L. Cushner, Esq.	-	Public Arbitrator
William Clark Newell, CFP	-	Non-Public Arbitrator

Concurring 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.



Marc W. McDonald, Esq.
Public Arbitrator, Presiding Chairperson

1-15-04

Signature Date

Stacey L. Cushner, Esq.
Public Arbitrator

Signature Date

William Clark Newell, CFP
Non-Public Arbitrator

Signature Date

January 16, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Marc W. McDonald, Esq. - Public Arbitrator, Presiding Chair
Stacey L. Cushner, Esq. - Public Arbitrator
William Clark Newell, CFP - Non-Public Arbitrator

Concurring Arbitrators' Signatures

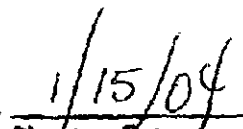
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Marc W. McDonald, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Stacey L. Cushner, Esq.
Public Arbitrator



Signature Date

William Clark Newell, CFP
Non-Public Arbitrator

Signature Date

January 16, 2004
Date of Service (For NASD Dispute Resolution use only)