

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lillian Hecker and Lillian Hecker as The Executor of the Estate of Sidney Hecker
(Claimants) v. David Lerner Associates, Inc., Douglas Albert, and Anthony Meere
(Respondents)

Case Number: 02-04941

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Lillian Hecker ("Hecker") and Lillian Hecker as The Executor of the Estate of Sidney Hecker ("The Estate") hereinafter collectively referred to as "Claimants":
Meredith Rosen, Esq., Paduano & Weintraub, LLP, New York, NY.

Respondents David Lerner Associates, Inc. ("DLA") and Anthony Meere ("Meere"):
Joseph C. Pickard, Esq., David Lerner Associates, Inc., Syosset, NY.

Respondent Douglas Albert ("Albert"): David Hirschberg, Esq., Wexler & Burkhart,
P.C., Mitchel Field, NY.

DLA, Meere, and Albert are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

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

Claimants signed the Uniform Submission Agreement: March 29, 2002.

Joint Statement of Answer filed by Respondents on or about: November 22, 2002.

Respondents signed the Uniform Submission Agreement: November 22, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading; unsuitability; forgery; fraud; negligence; and breach of fiduciary duty. Claimants' claim involved REITS, bonds, and mutual funds.

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

RELIEF REQUESTED

Claimants requested compensatory damages in excess of \$600,000.00; punitive damages in the amount of \$1,000,000.00; rescission of all unauthorized transactions; a referral to the Enforcement Division of the NASD, Inc., for the initiation of an investigation and disciplinary proceedings against Respondents; reasonable attorneys' fees; costs; and such other and further relief as the Panel deems just and proper.

Respondents requested that Claimants' Statement of Claim be, in all respects, dismissed, and that costs and disbursements be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

1. Respondents DLA and Albert are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$50,000.00.
2. Respondents DLA and Albert are jointly and severally liable for and shall pay to Claimants punitive damages in the amount of \$125,000.00 pursuant to case law cited in the closing arguments made by Claimant's counsel.
3. Respondents DLA and Albert are jointly and severally liable for and shall pay to Claimants attorneys' fees in the amount of \$40,000.00 based on Respondents' egregious conduct.
4. Respondents DLA and Albert are jointly and severally liable for and shall pay to Claimant the sum of 500.00, to reimburse Claimants for the filing fee previously paid to NASD Dispute Resolution.
5. 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 = \$500.00

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 persons at the time of the events giving rise to the dispute. Accordingly, David Lerner Associates, Inc. is a party.

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 21, 22, 24, and 25, 2003, adjournment by Respondent Albert = Waived

September 25, 29, 30, and October 7, 2003, adjournment by Claimants = Waived

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:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: April 15, 2003 1 session

August 14, 2003 1 session

Eight (8) Hearing sessions @ \$1,200.00 = \$ 9,600.00

Hearing Dates: April 20, 2004 2 sessions

April 21, 2004 2 sessions

April 22, 2004 2 sessions

April 23, 2004 2 sessions

Total Forum Fees = \$12,000.00

1. The Panel has assessed \$12,000.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 500.00

Total Fees = \$ 500.00

Less payments = \$ 1,700.00

Refund Due to Claimants = \$ 1,200.00

As stated in the "Award" section above, Respondents DLA and Albert are jointly and severally liable and shall reimburse Claimants for the \$500.00 filing fee.

2. Respondent DLA is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents DLA and Albert are jointly and severally liable for:

<u>Forum Fees</u>	= \$12,000.00
<u>Total Fees</u>	= \$12,000.00
<u>Less payments</u>	= \$ 3,750.00
Balance Due NASD Dispute Resolution	= \$ 8,250.00

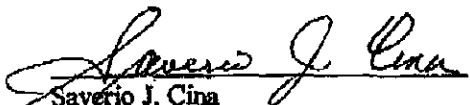
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Saverio J. Cina	-	Public Arbitrator, Presiding Chair
Thomas F. Fox	-	Public Arbitrator
Marc R. Green, Esq.	-	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.


Saverio J. Cina
Public Arbitrator, Presiding Chairperson


Signature Date

Thomas F. Fox
Public Arbitrator

Signature Date

Marc R. Green, Esq.
Non-Public Arbitrator

Signature Date

MAY 18, 2004
Date of Service (For NASD Dispute Resolution use only)

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