
Award
NASD DISPUTE RESOLUTION

In the Matter of the Arbitration Between:

Name of Claimant
B.M. Smith

Case Number: 02-05482

Names of Respondents
American Investment Services, Inc.
Tom Kyro individually and as agent for American
Investment Services, Inc.

Hearing Site: Tampa, Florida

REPRESENTATION OF PARTIES

For B.M. Smith, hereinafter referred to as "Claimant": J. Benton Stewart, II, Esq., The Stewart Law Group, P.L., Tampa, FL.

Respondents American Investment Services, Inc. ("AIS") and Tom Kyro individually and as agent for American Investment Services, Inc. ("Kyro"), hereinafter collectively referred to as "Respondents", did not appear.

CASE INFORMATION

Statement of Claim filed on or about: September 13, 2002.

Claimant signed the Uniform Submission Agreement on: May 15, 2002.

Respondents AIS and Kyro did not file Statements of Answer.

Respondents AIS and Kyro did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; common law fraud; violations of the Florida Securities and Investor Protection Act, Florida Statutes section 517.301; breach of fiduciary duty; failure to supervise; and, violations of Article III of the NASD Rules of Fair Practice. The causes of action relate to the purchase of Thermacell Technologies, Inc. stock and other unspecified securities products in Claimant's account.

RELIEF REQUESTED

Claimant requested compensatory damages of \$90,000.00 plus statutory interest, special credit, commissions, mark up/down or added credits or disgorgement, costs, punitive damages of \$400,000.00, and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents AIS and Kyro did not appear in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondents AIS and Kyro have been properly served with the Statement of Claim, received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents AIS and Kyro did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The party present at the hearing 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents AIS and Kyro are liable, jointly and severally, on the claims of misrepresentation, fraud, and violation of Florida Statutes section 517.301 and shall pay Claimant compensatory damages in the sum of \$85,000.00 plus interest at the Florida statutory rate accruing from June 6, 2003 until the date of payment of the Award.

Respondents AIS and Kyro are liable, jointly and severally, for violating Florida Statutes section 517.301 by deliberately misrepresenting material facts on a series of investments and shall pay Claimant punitive damages in the sum of \$85,000.00 plus interest at the Florida statutory rate accruing from June 6, 2003 until the date of payment of the Award.

Respondents AIS and Kyro are liable, jointly and severally, for violations of Florida Statutes chapter 517 in the handling of Claimant's accounts and shall pay Claimant attorneys' fees in an amount to be determined by a court of competent jurisdiction.

Any and all claims for relief not specifically addressed herein are 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

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. Respondent AIS was no longer an active member firm of NASD as of June 2, 2002.

<u>Member surcharge</u>	= \$1,700.00
Total Member Fees	= \$1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were assessed during these proceedings.

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 @ \$1,125.00		= \$1,125.00
Pre-hearing conference:	May 9, 2003	1 session
One (1) Hearing session @ \$1,125.00		= \$1,125.00
Hearing Date:	June 6, 2003	1 session
<hr/> Total Forum Fees		= \$2,250.00

The Panel has assessed the total forum fees of \$2,250.00 to Claimant.

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 during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,250.00
Total Fees	= \$ 2,550.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent AIS is solely liable for:

<u>Member Fees</u>	= \$ 1,700.00
Total Fees	= \$ 1,700.00
<u>Less Payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,700.00

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

ARBITRATION PANEL

R. Donald Kelly, LLB	-	Public Arbitrator, Presiding Chairperson
William S. Glickfield, Esq.	-	Public Arbitrator
Fred V. McCrindle	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
R. Donald Kelly, LLB
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
William S. Glickfield, Esq.
Public Arbitrator

Signature Date

/s/
Fred V. McCrindle
Non-Public Arbitrator

Signature Date

July 17, 2003

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

Fee Summary

Claimant is solely liable for:

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Total Fees	= \$ 1,700.00
<u>Less Payments</u>	= \$ 0.00
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William S. Glickfield, Esq.	-	Public Arbitrator
Fred V. McCrindle	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


R. Donald Kelly, LLB
Public Arbitrator, Presiding Chairperson

7-16-03
Signature Date

William S. Glickfield, Esq.
Public Arbitrator

Signature Date

Fred V. McCrindle
Non-Public Arbitrator

Signature Date

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

ARBITRATION PANEL

R. Donald Kelly, LLB	-	Public Arbitrator, Presiding Chairperson
William S. Glickfield, Esq.	-	Public Arbitrator
Fred V. McCrindle	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

R. Donald Kelly, LLB
Public Arbitrator, Presiding Chairperson

Signature Date



William S. Glickfield, Esq.
Public Arbitrator

7-15-03

Signature Date

Fred V. McCrindle
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 02-05482
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Member Fees	= \$ 1,700.00
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Less Payments	= \$ 0.00
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ARBITRATION PANEL

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William S. Glickfield, Esq.	-	Public Arbitrator
Fred V. McCrindle	-	Non-Public Arbitrator

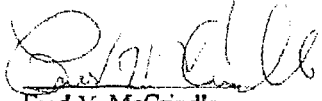
Concurring Arbitrators' Signatures

R. Donald Kelly, LLB
Public Arbitrator, Presiding Chairperson

Signature Date

William S. Glickfield, Esq.
Public Arbitrator

Signature Date


Fred V. McCrindle
Non-Public Arbitrator


Signature Date

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