

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael J. Mauro (Claimant) v. Sharpe Capital, Inc. and U.S. Clearing (Respondents)

Case Number: 02-05727

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant Michael J. Mauro, hereinafter referred to as "Claimant": Brian H. Reis, Esq., Law Office of Brian Reis, New York, NY.

Respondent Sharpe Capital, Inc. ("Sharpe"): Michael Simon, Esq., Sharpe Capital, Inc., New York, NY.

Respondent U.S. Clearing ("US Clearing"): Peter Byer, Esq., Quick & Reilly, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: September 25, 2002.

Claimant signed the Uniform Submission Agreement: September 23, 2002.

Statement of Answer filed by Respondent US Clearing on or about: February 28, 2003.

US Clearing signed the Uniform Submission Agreement: February 25, 2003.

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

Sharpe signed the Uniform Submission Agreement: January 6, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: wrongful liquidation.

Claimant's claim involved the stock of Lightpath Technologies, Inc. ACT Networks, Inc.

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

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount \$46,630.00, filing fees, forum fees, and attorney's fees.

Respondent Sharpe requested that the Panel:

1. Dismiss Claimant's claim;
2. Recuse Claimant's counsel;
3. Order Claimant to indemnify Sharpe for its costs of defense in this proceeding;
and
4. Award such further relief as the Panel deems just and proper.

Respondent US Clearing requested that the claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator allowed Respondent Sharpe to appear at the hearing via telephone in this matter.

During the hearing in this matter, Claimant orally withdrew his claims against Respondent Sharpe.

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, 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 hereby denied in its 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 = \$175.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Sharpe Capital, Inc. and U.S. Clearing are parties.

Sharpe Capital, Inc.
Member surcharge = \$ 875.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,000.00

U.S. Clearing
Member surcharge = \$ 875.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,000.00

Forum Fees and Assessments

The Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$450.00
Pre-hearing conference: May 5, 2003 1 session

One (1) Hearing session @ \$450.00 = \$450.00
Hearing Date:

July 18, 2003 1 session

Total Forum Fees = \$900.00

1. The Arbitrator has assessed \$450.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$450.00 of the forum fees against Respondent US Clearing.

Fee Summary

1. Claimant is solely liable for:
Initial Filing Fee = \$ 175.00
Forum Fees = \$ 450.00
Total Fees = \$ 625.00
Less payments = \$ 625.00
Balance Due NASD Dispute Resolution = \$ 0.00

2. Respondent Sharpe is solely liable for:

<u>Member Fees</u>	= \$ 2,625.00
<u>Total Fees</u>	= \$ 2,625.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,625.00

3. Respondent US Clearing is solely liable for:

<u>Member Fees</u>	= \$ 2,625.00
<u>Forum Fees</u>	= \$ 450.00
<u>Total Fees</u>	= \$ 3,075.00
<u>Less payments</u>	= \$ 1,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,450.00

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

NASD REGULATION

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ARBITRATION PANEL

Diana R. Cohen, Esq.

- Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

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 is which is my award.



Diana R. Cohen, Esq.
Public Arbitrator, Presiding Chairperson

8/11/03
Signature Date

August 12, 2003
Date of Service (For NASD Dispute Resolution use only)