
Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of the Claimant
Theresa Marie Bextermiller

Case Number: 02-06165

Names of the Respondents
Caspar Martin Unterreiner
Jeffrey J. Unterreiner

Hearing Site: St. Louis, Missouri

REPRESENTATION OF PARTIES

Claimant Theresa Marie Bextermiller ("Claimant"): appeared *pro se*.

Respondents Caspar Martin Unterreiner ("C. Unterreiner") and Jeffrey J. Unterreiner ("J. Unterreiner"): appeared *pro se*.

CASE INFORMATION

The Statement of Claim was filed on or about October 15, 2002.

Claimant signed the Uniform Submission Agreement on September 29, 2002.

C. Unterreiner filed a Statement of Answer and Motion to Dismiss on or about October 31, 2002.

J. Unterreiner joined in C. Unterreiner's Answer and Motion to Dismiss on or about December 1, 2002.

Neither Respondent signed the Uniform Submission Agreement.

Claimant filed a response to the Motion to Dismiss on or about December 4, 2002.

CASE SUMMARY

Claimant alleged the following in her Statement of Claim: misrepresentations and defamation. These allegations were related to advice given by Respondents to Claimant with respect to a real estate transaction.

Unless otherwise admitted in their Statement of Answer, Respondents denied Claimant's allegations and asserted the following affirmative defense: the Statement of Claim is ineligible for submission under Rule 10304 of the NASD Code of Arbitration Procedure ("the Code").

RELIEF REQUESTED

Claimant requested the following in her Statement of Claim:

Compensatory Damages	\$ 77,500.65
Punitive Damages	\$ 48,442.00
Interest	\$ 17,442.00
Costs	not specified
Attorney's Fees	not specified

Respondents requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Caspar Martin Unterreiner and Jeffrey J. Unterreiner did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim and having attended the hearing, are bound by the determination of the Panel on all issues submitted.

A telephonic hearing was held in this matter on May 30, 2003, during which the Panel heard oral argument with respect to Respondents' Motion to Dismiss.

ORDER

After considering the pleadings and the arguments presented at the hearing, the undersigned Panel finds in full and final resolution of the issues submitted for determination as follows:

1. Claimant Theresa Marie Bextermiller was unable to present any dispute, claim or controversy involving either of the Respondents regarding any event or occurrence within the past 6 years (as measured from the date of filing of Claimant's Statement of Claim with NASD Dispute Resolution) pertaining to securities and investment activity. Consequently, it is ordered that the forum is denied, pursuant to Rule 10304 of the Code, and that all claims filed by Claimant Theresa Marie Bextermiller against Respondents Caspar Martin Unterreiner and Jeffrey J. Unterreiner are dismissed.
2. Except as otherwise specified herein, each party shall bear its own costs and expenses.
3. Any and all relief not specifically addressed herein is denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the following non-refundable filing fee:

Initial claim filing fee = \$ 300.00*

*Based on a showing of financial need, NASD Dispute Resolution waived the initial claim filing fee.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Proactive Financial Services, Inc.

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

Forum Fees and Assessments

The Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel x \$1,125 = \$ 1,125.00
Pre-hearing conference: May 30, 2002 1 session
Total Forum Fees = \$ 1,125.00

The Panel has assessed the forum fees incurred in this arbitration as follows:

One half of the fees (\$562.50) are assessed to Claimant Theresa Marie Bextermiller, solely.

One half of the fees (\$562.50) are assessed to Respondents Caspar Martin Unterreiner and Jeffrey J. Unterreiner, jointly and severally.

Fee Summary

1. Claimant, Theresa Marie Bextermiller, is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less Payments</u>	= \$ 0.00
Balance due to NASD Dispute Resolution	= \$ 562.50

2. Proactive Financial Services, Inc., is solely liable for:

<u>Member Fees</u>	= \$ 2,450.00
Total Fees	= \$ 2,450.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due to NASD Dispute Resolution	= \$ 750.00

3. Respondents, Caspar Martin Unterreiner and Jeffrey J. Unterreiner are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due to NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

<i>Darla J. Goodrich</i>	-	<i>Non-Public Arbitrator, Chairperson</i>
<i>Thomas A. Cipolla, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Robert J. Gryzmala, Esq.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/ Darla J. Goodrich

Darla J. Goodrich
Chairperson

June 13, 2003

Signature Date

/s/ Thomas A. Cipolla

Thomas A. Cipolla, Esq.
Public Arbitrator

June 16, 2003

Signature Date

/s/ Robert J. Gryzmala

Robert J. Gryzmala, Esq.
Public Arbitrator

June 6, 2003

Signature Date

Date of Service (For NASD Dispute Resolution office use)

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<i>Thomas A. Cipolla, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Robert J. Gryzmala, Esq.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures


 Darla J. Goodrich
 Chairperson

6/13/03
 Signature Date

 Thomas A. Cipolla, Esq.
 Public Arbitrator

 Signature Date

 Robert J. Gryzmala, Esq.
 Public Arbitrator

 Signature Date

 Date of Service (For NASD Dispute Resolution office use)

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<i>Thomas A. Cipolla, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Robert J. Gryzmala, Esq.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

Darla J. Goodrich
Chairperson

Signature Date

Thomas A. Cipolla
Thomas A. Cipolla, Esq.
Public Arbitrator

6/16/03
Signature Date

Robert J. Gryzmala, Esq.
Public Arbitrator

Signature Date

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<i>Robert J. Gryzmala, Esq.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

Darla J. Goodrich
Chairperson

Signature Date

Thomas A. Cipolla, Esq.
Public Arbitrator

Signature Date

Robert J. Gryzmala
Robert J. Gryzmala, Esq.
Public Arbitrator

JUNE 6, 2003
Signature Date

Date of Service (For NASD Dispute Resolution office use)