

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William P. Abbott (Claimant) v. McDonald Investments, Inc. and Douglas Sanker (Respondents)

Case Number: 02-06373

Hearing Site: Cleveland, Ohio

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant William P. Abbott ("Abbott") hereinafter referred to as "Claimant": David B. Webster, Esq., Webster & Webster, LLP, Cleveland, OH.

Respondents McDonald Investments, Inc. ("McDonald") and Douglas Sanker ("Sanker") hereinafter collectively referred to as "Respondents": Eric K. Combs, Esq., and Russell S. Sayre, Esq., Taft, Stettinius & Hollister, LLP, Cincinnati, OH.

Taft, Stettinius & Hollister, LLP, Cincinnati, OH.

CASE INFORMATION

Statement of Claim filed on or about: October 23, 2002.

Claimant signed the Uniform Submission Agreement: July 31, 2003.

Joint Statement of Answer filed by Respondents on or about: April 2, 2003.

Respondent McDonald signed the Uniform Submission Agreement: March 3, 2003.

Respondent Sanker did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; negligence; and breach of fiduciary duty. The causes of action relate to unspecified securities.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$112,544.65; punitive damages; and such other and further relief to which Claimant may be entitled, including costs, attorneys' fees,

and expenses.

Respondents requested dismissal of the Statement of Claim; costs; and such other and further relief as is just.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Sanker 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.

Respondents made a motion to dismiss after the close of Claimant's case. After due consideration, the Panel determined that they "have heard sufficient evidence on the issue of suitability that we deny the motion to dismiss".

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 are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$24,500.00.
2. Any and all relief not specifically addressed herein, including punitive damages, 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

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, McDonald Investments, Inc., is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 27-29, 2004, joint adjournment request

= 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:

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: September 8, 2003 1 session

Five (5) Hearing sessions @ \$1,125.00 = \$5,625.00

Hearing Dates: October 27, 2004 2 sessions

October 28, 2004 2 sessions

October 29, 2004 1 session

Total Forum Fees = \$6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$3,375.00

Total Fees = \$3,675.00

Less payments = \$2,325.00

Balance Due NASD Dispute Resolution = \$1,350.00

2. Respondent McDonald is solely liable for:

Member Fees = \$5,200.00

Total Fees = \$5,200.00

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees = \$3,375.00

Total Fees = \$3,375.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$3,375.00

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

ARBITRATION PANEL

Thomas R. Skulina, Esq.	-	Public Arbitrator, Presiding Chairperson
Frank C. Fogl, Jr., Esq.	-	Public Arbitrator
Truman M. Hogan	-	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.




Thomas R. Skulina, Esq.
Public Arbitrator, Presiding Chairperson

11-3-04

Signature Date


Frank C. Fogl, Jr., Esq.
Public Arbitrator


Signature Date


Truman M. Hogan
Non-Public Arbitrator


Signature Date

November 4, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

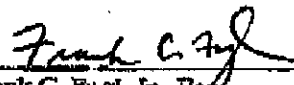
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Thomas R. Skulina, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Frank C. Fogl, Jr., Esq.
Public Arbitrator

11/2/04

Signature Date

Truman M. Hogan
Non-Public Arbitrator

Signature Date

November 4, 2004

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ARBITRATION PANEL

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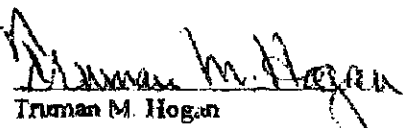
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Thomas R. Skulina, Esq.
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Signature Date

Frank C. Fogl, Jr., Esq.
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Truman M. Hogan
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11-2-04
Signature Date

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