

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sharon L. Huelsman (Claimant) v. Navellier & Associates, Inc., Louis G. Navellier, Shawn Price, Prim Capital Corporation, Carolyn C. Kaufman, CFP, CPA, Kelly Smith, and Michael T. O'Neill (Respondents)

Case Number: 02-06532

Hearing Site: Cleveland, Ohio

Nature of the Dispute: Customer vs. Non-Members and Associated Persons.

REPRESENTATION OF PARTIES

Claimant Sharon L. Huelsman ("Huelsman") hereinafter referred to as "Claimant":
Roger W. Van Deusen, Esq., Van Deusen & Wagner, LLC, Cleveland, OH.

Respondents Navellier & Associates, Inc. ("Navellier & Associates"), Louis G. Navellier ("L. Navellier"), and Shawn Price ("Price"): Joseph E. Floren, Esq., Steefel Levitt & Weiss, P.C., San Francisco, CA.

Respondent Prim Capital Corporation ("Prim"): Sam Zingale and Van Carter, Prim Capital Corporation, Cleveland, OH. Previously represented by Karl E. May, Esq., Cowden Humphrey, Cleveland, OH.

Respondent Kelly Smith ("Smith"): Jim Koutrodimos, Prim Capital Corporation, Cleveland, OH. Previously represented by Karl E. May, Esq., Cowden Humphrey, Cleveland, OH.

Respondent Michael O'Neill ("O'Neill"): Michael N. Ungar, Esq., Ulmer & Berne, LLP, Cleveland, OH. Previously represented by Karl E. May, Esq., Cowden Humphrey, Cleveland, OH.

Respondent Carolyn C. Kaufman, CFP, CPA ("Kaufman"): Joseph Dattilo, Esq., Brouse McDowell, Cleveland, OH. Previously represented by Karl E. May, Esq., Cowden Humphrey, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: October 29, 2002.

Claimant signed the Uniform Submission Agreement: October 5, 2002.

Joint Statement of Answer filed by Respondents Prim, Kaufman, Smith, and O'Neill on or about: March 19, 2003.

Prim signed the Uniform Submission Agreement: March 19, 2003.
Kaufman did not sign the Uniform Submission Agreement.
Smith did not sign the Uniform Submission Agreement.
O'Neill did not sign the Uniform Submission Agreement.

Statement of Answer filed by Respondent Navellier & Associates on or about: August 29, 2003.
Navellier & Associates signed the Uniform Submission Agreement: December 31, 2003.

L. Navellier did not file a Statement of Answer or sign a Uniform Submission Agreement.

Price did not file a Statement of Answer or sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Rule 10(b)5; breach of fiduciary duties; fraud; gross negligence; negligence; breach of contract; and misrepresentation. Claimant's claim involved Navellier Large Cap funds.

Unless specifically admitted in their Answer, Respondents Prim, Kaufman, Smith, and O'Neill denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$164,300.00 for losses incurred from the liquidation of the Navellier fund and for additional commission of approximately \$5,200.00 and advisory fee charges of approximately \$4,000.00; for exemplary damages and/or punitive damages in the amount of \$150,000.00; reasonable attorneys' fees, expert fees and copying charges, and for all fees and costs of this arbitration.

Respondents Prim, Kaufman, Smith, and O'Neill requested that they be dismissed as parties from this case, that any assessment that might be charged to them be reimbursed, and that all hearing fees be charged to the Claimant.

Respondent Navellier & Associates requested that Claimant takes nothing, and that the Statement of Claim be dismissed in its entirety; that Navellier & Associates be awarded its costs of this proceeding, including all forum fees; and for such other and further relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Kaufman, Smith, O'Neill, L. Navellier, and Price did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about July 21, 2003, a Stipulation and Order was filed by Claimant dismissing and withdrawing all claims against Respondents L. Navellier and Price. In addition, the Order stated that Respondent Navellier & Associates, a non-member of NASD, withdrew its previously stated objection to the jurisdiction and agreed to submit to arbitration and file a Statement of Answer in this arbitration.

At the hearing, O'Neill moved to be dismissed as a Respondent. After due deliberation, the Panel granted said motion.

At the hearing, Smith moved for dismissal of all claims against her. After due deliberation, the Panel granted said motion.

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. The Panel finds Prim liable for simple negligence and breach of contract.
2. Prim is liable for and shall pay to Claimant compensatory damages in the amount of \$50,000.00.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kelly Smith's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Kelly Smith must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive. The Panel recommends this expungement of Kelly Smith's records because the charges Claimant brought against her were defamatory in nature.
4. 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
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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, Prim Securities, Inc. is one of the Respondent's firms.

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

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, Navellier Securities Corp. is one of the Respondent's firms.

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

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
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Pre-hearing conference:	July 9, 2003	1 session
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Four (4) Hearing sessions @ \$1,125.00	= \$ 4,500.00
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Hearing Dates:	January 12, 2004	2 sessions
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	January 13, 2004	2 sessions
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Total Forum Fees	= \$5,625.00
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1. The Panel has assessed \$2,812.50 of the forum fees against Claimant.
2. The Panel has assessed \$2,812.50 of the forum fees against Prim.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= <u>\$2,812.50</u>
Total Fees	= \$3,112.50
<u>Less payments</u>	= <u>\$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$1,687.50
2. Prim Securities Corp. is solely liable for:	
<u>Member Fees</u>	= <u>\$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	= <u>\$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Navellier Securities Corp. is solely liable for:	
<u>Member Fees</u>	= <u>\$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	= <u>\$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00
4. Respondent Prim is solely liable for:	
<u>Forum Fees</u>	= <u>\$2,812.50</u>
Total Fees	= \$2,812.50
<u>Less payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$2,812.50

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

ARBITRATION PANEL

Michael L. King	-	Public Arbitrator, Presiding Chair
Sanford Heiser	-	Public Arbitrator
Kimberly M. Haws-Falasco	-	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.

Michael L. King
Michael L. King
Public Arbitrator, Presiding Chairperson

January 15, 2004
Signature Date

Sanford Heiser
Public Arbitrator

Signature Date

Kimberly M. Haws-Falasco
Non-Public Arbitrator

Signature Date

January 16, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Michael L. King	-	Public Arbitrator, Presiding Chair
Sanford Heiser	-	Public Arbitrator
Kimberly M. Haws-Falasco	-	Non-Public Arbitrator

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Michael L. King
Public Arbitrator, Presiding Chairperson

Signature Date



Sanford Heiser
Public Arbitrator

1-15-04

Signature Date

Kimberly M. Haws-Falasco
Non-Public Arbitrator

Signature Date

January 16, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Michael L. King	-	Public Arbitrator, Presiding Chair
Sanford Heiser	-	Public Arbitrator
Kimberly M. Haws-Falasco	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

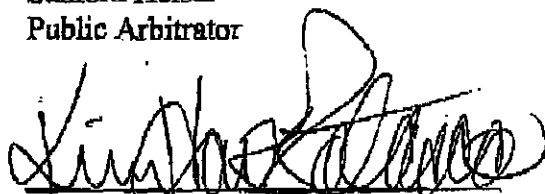
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Michael L. King
Public Arbitrator, Presiding Chairperson

Signature Date

Sanford Heiser
Public Arbitrator

Signature Date



Kimberly M. Haws-Falasco
Non-Public Arbitrator

1-16-04
Signature Date

January 16, 2004

Date of Service (For NASD Dispute Resolution use only)