

Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimants  
Fannie H. Thomas  
Fannie H. Thomas IRA  
Nathaniel A. McKinnon

Case Number: 02-06552

Name of the Respondent  
The Chapman Company

Hearing Site: Baltimore, Maryland

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Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimants, Fannie H. Thomas ("Thomas"), Fannie H. Thomas IRA and Nathaniel A. McKinnon ("McKinnon"), hereinafter collectively referred to as "Claimants", were represented by James H. West, Esq., West & Moore, LLC, Baltimore, Maryland.

Respondent, The Chapman Company ("Respondent") was represented by Nathaniel E. Jones, Jr., Esq. and James H. Fields, Esq., Jones & Associates, P.C., Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on October 28, 2002.

Claimant Thomas signed the Uniform Submission Agreement on October 28, 2002.

Thomas signed the Uniform Submission Agreement as power of attorney for McKinnon on October 28, 2002.

Statement of Answer filed by Respondent on January 9, 2003.

A representative of Respondent executed the Uniform Submission Agreement on January 9, 2003.

Claimants filed a Motion for Summary Judgment on October 1, 2003.

Respondent filed a Response to the Motion for Summary Judgment on October 8, 2003.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty, misrepresentation, omissions of material fact, unauthorized trading, breach of contract, negligence, negligent supervision, and violation of Maryland Securities Act. The causes of action relate to the purchase of eChapman.com stock; the purchase and sale of shares of the Flag Investors Communication Fund, and, the purchase of shares in Compaq Computer Corp.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimants' complaint fails to state a claim upon which relief can be granted, assumption of risk, the claim is barred by the

applicable statute of limitations, estoppel, waiver, laches, all transactions in Claimants' accounts were authorized and agreed to by Claimants, and, Respondent acted in conformity with all applicable securities laws and industry rules.

#### RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$50,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed with prejudice.

#### OTHER ISSUES CONSIDERED AND DECIDED

At the commencement of the hearing, Claimants renewed their Motion for Summary Judgment. The Arbitrator had not previously ruled on the motion which was originally filed on October 3, 2003. The motion was denied.

At the conclusion of Claimants' case-in-chief, counsel for Claimants again moved for summary judgment. The motion was granted as to all statutory claims except 3 transactions for unauthorized trading on limitations basis, and denied as to all other claims.

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. Respondent is liable to and shall pay to Claimants compensatory damages in the amount of seven thousand eight hundred dollars and zero cents (\$7,800.00) plus interest at the rate of 10% *per annum*. Interest shall be calculated on a simple basis and shall accrue from July 1, 2000 through the date the Award is paid in full;
2. Respondent is liable to and shall pay to Claimants attorneys' fees in the amount of two thousand six hundred dollars and zero cents (\$2,600.00) Authority for the award of attorneys' fees is derived from the Maryland "Blue Sky" Law, Corporations and Associations, Sections 11-101 *et seq.*, specifically 11-703(b)(1);
3. Respondent shall pay to Claimants the sum of one hundred and seventy-five dollars and

zero cents (\$175.00) as reimbursement of the claim filing fee

4. If it is still in her possession or control, Claimant Thomas shall return six hundred shares of eChapman.com stock to Respondent;
5. The parties shall bear their respective costs, except as Fees are specifically addressed below; and,
6. Any and all relief not specifically addressed herein is denied in its entirety.

#### 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 person(s) at the time of the events giving rise to the dispute. Accordingly, the Chapman Company is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total Member Fees	= \$2,625.00

##### Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Arbitrator @ \$ 450.00 = \$ 900.00

Pre-hearing conferences:	July 2, 2003	1 session
	October 17, 2003	1 session

Nine (9)) Hearing session with Arbitrator @ \$450.00 = \$4,050.00

Hearing sessions:	March 16, 2004	1 session
	March 18, 2004	2 sessions
	March 19, 2004	2 sessions
	March 24, 2004	2 sessions
	March 25, 2004	2 sessions

Total Forum Fees = \$4,950.00

1. The Panel has assessed \$4,950.00 of the forum fees to Respondent.

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 3-7, 2003 adjournment by Respondent = \$ 450.00

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

<u>Initial Filing Fee</u>	= \$ 175.00
Total fees	= \$ 175.00
<u>Less payments</u>	= \$ 625.00
Refund Due Claimants	= \$ 450.00

3. Respondent is assessed and shall pay the following fees:

Member Fees	= \$ 2,625.00
Adjournment Fee	= \$ 450.00
<u>Forum Fees</u>	= \$ 4,950.00
Total Fees	= \$ 8,025.00
<u>Less payments</u>	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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

SINGLE ARBITRATOR

Marvin Elster

- Public Arbitrator, Presiding Chairperson

FROM "MARVIN ELSTER"

FAX NO. : 301 208 0602

Apr. 06 2004 11:20AM P2

04/05/2004 10:44 FAX 202 728 8082

NASD DISPUTE RESOLUTION

NASD Dispute Resolution

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Arbitrator's Signature



Marvin Elster, Esq.

Public Arbitrator, Presiding Chairperson

APRIL 6, 2004  
Signature Date

4/6/04

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