

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Victoria S. Fenton, Claimant v. Douglas C. Johns and Russell W. Millard, Respondents

Case Number: 02-06928

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Customer v. Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Alan N. Fenton, Esq.
Law Offices of Alan N.
Fenton
Las Vegas, Nevada

For Respondent Douglas C. Johns:

Eileen L. McGeever, Esq.
Rushall & McGeever
Carlsbad, California

For Respondent Russell W. Millard:

R. Craig Zafis, Esq.
R. Craig Zafis, APC
San Diego, California

CASE INFORMATION

Statement of Claim filed: November 15, 2002

Claimant's Uniform Submission Agreement signed: December 18, 2002

Statement of Answer filed by Respondent Douglas C. Johns: September 3, 2003

CASE SUMMARY

Claimant alleged misrepresentation, fraud in the inducement, breach of contract, breach of fiduciary duty, and negligence. Claimant's allegations involved promissory notes issued by the Centurion Fund, LLC and the Marathon Fund, LLC.

Respondent Douglas C. Johns denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$50,000.00 in compensatory damages, \$40,000.00 in punitive damages, pre-

and post-judgment interest at a rate of 10% per year from May 1, 2000, reimbursement of filing fees, and costs, including attorney's fees.

Respondent Douglas C. Johns requested dismissal of Claimant's Statement of Claim in its entirety

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Douglas C. Johns did not file with NASD Dispute Resolution a properly executed submission agreement, but he is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and, having answered the claim and appeared and testified at the hearing, he is bound by the determination of the Panel on all issues submitted.

Respondent Russell W. Millard did not file with NASD Dispute Resolution a properly executed submission agreement, but he is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and so he is bound by the determination of the Panel on all issues submitted.

On October 10, 2003, Respondent Douglas C. Johns filed a Motion to Change Venue from Las Vegas, NV to San Diego, CA. On November 6, 2003, Claimant Victoria S. Fenton filed an Opposition to Respondent Douglas C. Johns' motion. On November 10, 2003, Respondent Douglas C. Johns filed a Reply to Claimant Victoria S. Fenton's Opposition. On November 18, 2003, the parties and the Panel participated in a pre-hearing conference regarding this motion. On December 15, 2003, the Panel denied the Motion to Change Venue.

On October 15, 2004, NASD Dispute Resolution received notice that Respondent Russell W. Millard filed Chapter 7 bankruptcy proceedings. Accordingly, this matter is stayed as to Respondent Russell W. Millard.

On December 9, 2004, Respondent Douglas C. Johns filed a Motion to Confirm Settlement Agreement and Dismiss NASD Claim. On December 16, 2004, Claimant Victoria S. Fenton filed an Opposition and Response to Motion to Confirm Settlement Agreement and Dismiss NASD Claim. On December 22, 2004, Respondent Douglas C. Johns filed a Reply to Claimant Victoria S. Fenton's Opposition. On December 27, 2004, the Panel denied the Motion to Confirm Settlement Agreement and Dismiss NASD Claim.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 225.00

Adjournment Fees

The following adjournment fees are assessed:

March 1, 2004, adjournment requested by Claimant = \$ 750.00

The Panel assessed the adjournment fee to Claimant.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Three (3) pre-hearing conference sessions with the Panel @ \$750.00/session = \$2,250.00

Pre-hearing conferences:	October 22, 2003	1 session
	November 18, 2003	1 session
	November 15, 2004	1 session

One (1) hearing session @ \$750.00/session = \$ 750.00

Hearing:	January 5, 2004	1 session
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Total Forum Fees = \$3,000.00

1. The Panel assessed \$1,500.00 of the forum fees to Claimant Victoria S. Fenton.
2. The Panel assessed \$1,500.00 of the forum fees to Respondent Douglas C. Johns.

Fee Summary

1. Claimant Victoria S. Fenton is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
Forum Fees	= \$1,500.00
Total Fees	= \$2,475.00
Less payments	= \$(975.00)
Balance Due NASD Dispute Resolution	= \$1,500.00

2. Respondent Douglas C. Johns is charged with the following fees and costs:

Forum Fees	= \$1,500.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$1,500.00

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


ARBITRATION PANEL

Neil J. Beller, Esq.
William Urga, Esq.
James A. Bishop

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Neil J. Beller, Esq.
Chair, Public Arbitrator

11/6/05
Signature Date

William Urga, Esq.
Public Arbitrator

Signature Date

James A. Bishop
Non-Public Arbitrator

Signature Date

11/10/05
Date of Service

ARBITRATION PANEL

Neil J. Beller, Esq.
William Urga, Esq.
James A. Bishop

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-

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Neil J. Beller, Esq.
Chair, Public Arbitrator

Signature Date



William Urga, Esq.
Public Arbitrator

1/7/05

Signature Date

James A. Bishop
Non-Public Arbitrator

Signature Date

1/10/05

Date of Service

ARBITRATION PANEL

<i>Neil J. Beller, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>William Urga, Esq.</i>	-	<i>Public Arbitrator</i>
<i>James A. Bishop</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Neil J. Beller, Esq.
Chair, Public Arbitrator

Signature Date

William Urga, Esq.
Public Arbitrator

Signature Date



James A. Bishop
Non-Public Arbitrator

JAN 7, 2005

Signature Date

1/10/05

Date of Service