

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Walter Edgar Seiz, Edward C. Henschel, and IS Intersecurities GMBH (Claimants) v.
Berry-Shino Securities, Inc. and R. Matthew Shino (Respondents)

Case Number: 02-07524

Hearing Site: New York, New York

Nature of the Dispute: Associated Person and Non-Member vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Walter Edgar Seiz ("Seiz"), Edward C. Henschel ("Henschel"), and IS Intersecurities GMBH ("IS") hereinafter collectively referred to as "Claimants": Burton M. Bentley, Esq., Burton M. Bentley, P.C., Phoenix, AZ.

Respondents Berry-Shino Securities, Inc. ("Berry-Shino") and R. Matthew Shino ("Shino") hereinafter collectively referred to as "Respondents": Michael Finkelstein, Esq., Finkelstein & Feil, LLP, Garden City, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 12, 2002.

Seiz signed the Uniform Submission Agreement: December 9, 2002.

Henschel signed the Uniform Submission Agreement: December 9, 2002.

IS signed the Uniform Submission Agreement: December 8, 2002.

Joint Statement of Answer filed by Respondents on or about: August 26, 2003.

Respondent Berry-Shino did not sign the Uniform Submission Agreement.

Respondent Shino did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: failure to pay commissions and compensation owed; breach of contract; and fraud.

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

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RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$148,966.64; punitive damages in the amount of \$148,966.64; interest at the rate of 10% per annum; costs; reasonable attorneys' fees; and such other and further relief as the arbitrators shall deem just, proper, and equitable.

Respondents requested an award dismissing the Statement of Claim in its entirety; expunging this frivolous claim from the CRD records of the Respondents; imposing all NASD costs and forum fees on the Claimants; and affording such other and further relief as the Panel deems just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents 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, and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

Claimant Edward Henschel appeared at the hearings telephonically.

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. Claimants' claims are dismissed in their entirety.
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

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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 firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Berry-Shino Securities, Inc. is a party.

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
Pre-hearing conference: September 17, 2003 1 session	

Five (5) Hearing sessions @ \$1,125.00	= \$5,625.00
Hearing Dates: April 7, 2004 2 sessions	
April 8, 2004 3 sessions	

Total Forum Fees	= \$6,750.00
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1. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$3,375.00
Total Fees	= \$3,675.00
<u>Less payments</u>	= \$2,125.00
Balance Due NASD Dispute Resolution	= \$1,550.00

2. Berry-Shino is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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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.

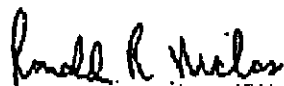
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ARBITRATION PANEL

Ronald R. Niclas, MBA	-	Non-Public Arbitrator, Presiding Chair
Michael P. Golden	-	Non-Public Arbitrator
Jeannette Yvonne Gerber	-	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.



Ronald R. Niclas, MBA
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Michael P. Golden
Non-Public Arbitrator

Signature Date

Jeannette Yvonne Gerber
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

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