

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas DiMassa (Claimant) vs. Financial American Securities, Inc., and Tim D. Austin

Case Number: 02-07780

Hearing Site: Cleveland, Ohio

REPRESENTATION OF PARTIES

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

Respondent, Financial America Securities, Inc., ("FAS"): Jeffery S. Sobieski, Esq., Seeley, Savidge & Ebert Co., LPA, Cleveland, OH.

Respondent, Timothy D. Austin, ("Austin"): did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: December 18, 2002.

Claimant signed the Uniform Submission Agreement: December 15, 2002.

Statement of Answer filed by FAS on: February 27, 2003.

FAS signed the Uniform Submission Agreement: February 25, 2003.

Austin did not file a Statement of Answer or submit a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, fraud, gross negligence, misrepresentation of facts, omission of facts and unauthorized trading.

Claimant's claim included various unspecified securities.

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

RELIEF REQUESTED

Claimant requested:

1. The amount of \$29,624.77 plus lost income and capital appreciation;
2. Exemplary and/or punitive damages in the sum of \$30,000.00;
3. Reasonable attorneys' fees;

4. Expert fees and for all fees and costs of arbitration.

FAS requested that Claimant's claim be dismissed without costs.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators the ("Panel") determined that Respondent Austin has been properly served with the Statement of Claim and received due notice of the hearing and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Austin 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 is bound by the determination of the Panel on all issues submitted.

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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Financial America Securities, Inc. and Tim D. Austin are liable for and shall pay to Claimant compensatory damages in the amount of \$29,624.77 plus interest at the rate of 10% per annum accruing from date of award until the award is paid.
2. Any and all relief not specifically addressed herein, including punitive damages are 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	= \$225.00
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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, FAS is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

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 @ \$750.00	= \$750.00
Pre-hearing conference: May 27, 2003	1 session
Two (2) Hearing sessions with Panel @ \$750.00	= \$1,500.00
Hearing Dates: September 10, 2003	2 sessions
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Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$2,250.00 of the forum fees jointly and severally against FAS and Austin.

Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due Claimant	= \$ 750.00

2. FAS is solely liable for:

<u>Member Fees</u>	= \$ 3,550.00
Total Fees	= \$ 3,550.00
<u>Less payments</u>	= \$ 1,850.00
Balance Due NASD Dispute Resolution	= \$ 1,700.00

3. Respondents, FAS and Austin, are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,250.00
Balance Due NASD Dispute Resolution	= \$2,250.00


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

ARBITRATION PANEL

Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chair
James Patrick Graven, J.D.	-	Public Arbitrator
Norman W. Hadsell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.



Benjamin B. Segel, Esq
Public Arbitrator, Presiding Chairperson

9/30/03

Signature Date

James Patrick Graven, J.D.
Public Arbitrator

Signature Date

Norman W. Hadsell
Non-Public Arbitrator

Signature Date

October 1, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

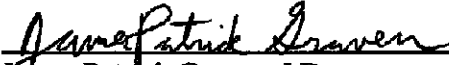
Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chair
James Patrick Graven, J.D.	-	Public Arbitrator
Norman W. Hadsell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Benjamin B. Segel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


James Patrick Graven, J.D.
Public Arbitrator

9-29-2003
Signature Date

Norman W. Hadsell
Non-Public Arbitrator

Signature Date

October 1, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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James Patrick Graven, J.D.	-	Public Arbitrator
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Benjamin B. Segel, Esq
Public Arbitrator, Presiding Chairperson

Signature Date

James Patrick Graven, J.D.
Public Arbitrator

Signature Date

Norman W. Hadsell
Norman W. Hadsell
Non-Public Arbitrator

Sept 29, 2003
Signature Date

October 1, 2003
Date of Service (For NASD Dispute Resolution use only)