

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Leonard J. Borggrebe and Richard C. Hartman, Claimants v. Financial West Group, Respondent

Case Number: 03-00462

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Peter R. Dion-Kindem, Esq.
Dion-Kindem & Crockett
Woodland Hills, California

For Respondent:

H. Thomas Fehn, Esq.
Fields, Fehn & Sherwin
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 20, 2003

Claimants' Joint Uniform Submission Agreement signed: January 18, 2003

Statement of Answer filed by Respondent: April 30, 2003

Respondent's Uniform Submission Agreement signed: May 2, 2003

CASE SUMMARY

Claimants alleged negligence, failure to supervise, breach of fiduciary duty, misrepresentations, omissions of fact, unsuitability, and unauthorized trading, involving stock in a company known as Metropolis.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants each requested \$50,000.00 for a total of \$100,000.00 in compensatory damages, unspecified punitive damages, interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On April 2, 2003, Claimants signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 9, 2003, Respondent's counsel signed a Waiver Agreement on its behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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) Respondent is liable to and shall pay Claimant Leonard J. Borggrebe the sum of \$50,000.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant Richard C. Hartman the sum of \$50,000.00 in compensatory damages.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Financial West Group is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

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/Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: September 18, 2003 1 session	
5 Hearing sessions @ \$750.00/session	= \$ 3,750.00
Hearings: February 16, 2004 2 sessions	
February 17, 2004 3 sessions	
Total Forum Fees	= \$ 4,500.00

The Panel assessed \$ 4,500.00 of the forum fees to Respondent.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Less payments</u>	<u>= \$(975.00)</u>
Refund Due Claimants	= \$(750.00)

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

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 8,050.00
<u>Less payments</u>	<u>= \$(3,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

Michael M. Hachigian	-	Public Arbitrator, Presiding Chair
Nancy G. Harris	-	Public Arbitrator
Michael W. Burnett, CFA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael M. Hachigian
Chair, Public Arbitrator

Signature Date

Nancy G. Harris
Public Arbitrator

Signature Date

Michael W. Burnett, CFA
Non-Public Arbitrator

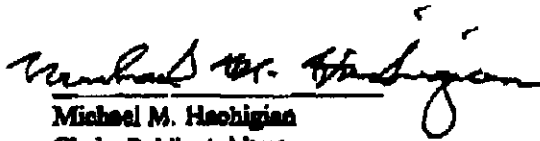
Signature Date

Date of Service

ARBITRATION PANEL

Michael M. Haehigian	-	Public Arbitrator, Presiding Chair
Nancy G. Harris	-	Public Arbitrator
Michael W. Burnett, CFA	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures



Michael M. Haehigian
Chair, Public Arbitrator

02/19/2009
Signature Date

Nancy G. Harris
Public Arbitrator

Signature Date

Michael W. Burnett, CFA
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Michael M. Hachigian	-	Public Arbitrator, Presiding Chair
Nancy G. Harris	-	Public Arbitrator
Michael W. Burnett, CFA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael M. Hachigian
Chair, Public Arbitrator

Signature Date



Nancy G. Harris
Public Arbitrator

2-19-04

Signature Date

Michael W. Burnett, CFA
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Michael M. Hachigian	-	Public Arbitrator, Presiding Chair
Nancy G. Harris	-	Public Arbitrator
Michael W. Burnett, CFA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael M. Hachigian
Chair, Public Arbitrator

Signature Date

Nancy G. Harris
Public Arbitrator

Signature Date



Michael W. Burnett, CFA
Non-Public Arbitrator

2/19/2004
Signature Date

Date of Service