
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Thomas and Lisa McHale JTWROS
Lisa Janice McHale Revocable Trust
Thomas McHale Revocable Trust

Case Number: 03-00732

Names of the Respondents

Morgan Keegan & Company, Inc.
Richard Henry Angelotti
Edward Martin Rosenberg

Hearing Site: Tampa, FL

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Thomas and Lisa McHale JTWROS, Lisa Janice McHale Revocable Trust, and Thomas McHale Revocable Trust, hereinafter collectively referred to as "Claimants": John R. Kiefner, Jr., Esq., Kiefner & Renaldo, P.A., St. Petersburg, FL.

For Respondents Morgan Keegan & Company, Inc. ("MKC"), Richard Henry Angelotti ("Angelotti"), and Edward Martin Rosenberg ("Rosenberg"), hereinafter collectively referred to as "Respondents": Mike A. Brady, Esq. and Michael J. Bradford, Esq., Tate, Lazarini & Beall, PLC, Memphis, TN.

CASE INFORMATION

Statement of Claim filed on or about: January 31, 2003.

Claimants Thomas and Lisa McHale JTWROS and Thomas McHale Revocable Trust signed the Uniform Submission Agreement: February 26, 2003.

Claimant Lisa Janice McHale Revocable Trust signed the Uniform Submission Agreement: February 24, 2003.

Statement of Answer filed by Respondents on or about: May 16, 2003.

Respondents MKC, Angelotti, and Rosenberg did not file executed Uniform Submission Agreements.

Respondents' Motion to Dismiss filed on or about: May 16, 2003.

Claimants' Opposition to Respondents' Motion to Dismiss filed on or about: August 15, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violation of §517.301, Florida Statutes; negligence; gross negligence; breach of fiduciary duty; negligent supervision; and, breach of contract. The causes of action relate to the purchase of Cisco Systems stock in Claimants' account and Respondents' alleged inaction during a declining market.

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

RELIEF REQUESTED

Claimants requested compensatory damages of \$2,156,224.00 pursuant to Florida Statutes §517.211, statutory interest, punitive damages, attorneys' fees, costs, and such other relief as the undersigned arbitrators (the "Panel") deemed appropriate.

Respondents requested dismissal of the Statement of Claim, that all NASD costs be assessed against Claimants, attorneys' fees, costs, expungement, and such other further and general relief to which they may be entitled.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 29, 2003, the Panel issued an order which denied Respondents' Motion to Dismiss.

Respondents MKC, Angelotti, and Rosenberg did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents MKC, Angelotti, and Rosenberg are liable, jointly and severally, for negligence, gross negligence, negligent supervision, and breach of fiduciary duty and shall pay to Claimants compensatory damages in the sum of \$477,802.00 plus interest in the sum of \$6,768.86.

Claimants' claims based upon violations of Florida Statutes chapter 517 are dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and Respondents' request for expungement, 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	= \$ 500.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent MKC is a member firm and a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

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:

One (1) Pre-hearing session with the Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: September 30, 2003 1 session	
Six (6) Hearing sessions @ \$1,200.00	= \$ 7,200.00
Hearing Dates: May 25, 2004 2 sessions	
May 26, 2004 2 sessions	
May 27, 2004 2 sessions	
Total Forum Fees	= \$ 8,400.00

The Panel has assessed \$4,200.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$4,200.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

Respondent MKC is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MKC, Angelotti, and Rosenberg are jointly and severally liable for:

Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

ARBITRATION PANEL

L. Matthew Byrd, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Kitty G. Grubb, Esq.	-	Public Arbitrator
James P. Ryan	-	Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Kitty G. Grubb, Esq.
Public Arbitrator

Signature Date

/s/
James P. Ryan
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Chairperson Byrd dissents from the method of the calculation of damages.

/s/
L. Matthew Byrd, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

June 3, 2004
Date of Service (For NASD Dispute Resolution office use only)

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

Respondent MKC is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MKC, Angelotti, and Rosenberg are jointly and severally liable for:


Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

ARBITRATION PANEL

L. Matthew Byrd, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Kitty G. Grubb, Esq.	-	Public Arbitrator
James P. Ryan	-	Public Arbitrator

Concurring Arbitrators' Signatures


Kitty G. Grubb, Esq.
Public Arbitrator


Signature Date

James P. Ryan
Public Arbitrator

Signature Date

JUN. 3. 2004 10:01AM NASD BOCA RATON
 NASD Dispute Resolution
 Arbitration No. 03-00732
 Award Page 4 of 5

NO. 027 P. 5

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

Respondent MKC is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MKC, Angelotti, and Rosenberg are jointly and severally liable for:

Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

ARBITRATION PANEL

L. Matthew Byrd, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Kitty G. Grubb, Esq.	-	Public Arbitrator
James P. Ryan	-	Public Arbitrator

Concurring Arbitrators' Signatures

Kitty G. Grubb, Esq.
 Public Arbitrator

Signature Date


 James P. Ryan
 Public Arbitrator

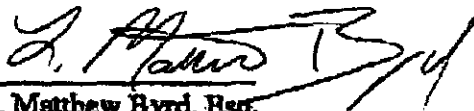
June 3, 2004
 Signature Date

Arbitration No. 03-00732

Award Page 5 of 5

Dissenting Arbitrator's Signature

Chairperson Byrd dissents from the method of the calculation of damages.



L. Matthew Byrd, Esq.

Non-Public Arbitrator, Presiding Chairperson

6/3/2004

Signature Date

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