
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Branari Family Limited Partnership,
Paul Labiner, General Partner

Case Number: 03-00752

Names of the Respondents

First Montauk Securities Corp.
and Jeffrey Donner, individually

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Branari Family Limited Partnership, Paul Labiner, General Partner, hereinafter referred to as "Claimant": Paul Labiner, Esq., Boca Raton, Florida.

For First Montauk Securities Corp. ("Montauk") and Jeffrey Donner, individually, ("Donner"), hereinafter collectively referred to as "Respondents": Darin DiBello, Esq., Seidman, Prewitt & DiBello, P.A., Boca Raton, Florida.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: August 16, 2002.

Answer and Affirmative Defenses to Statement of Claim filed by Respondents on or about: April 9, 2003.

Respondent Montauk signed the Uniform Submission Agreement: April 24, 2003.

Respondent Donner did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; failure to supervise; breach of duty to exercise reasonable care; breach of fiduciary duty; breach of guarantee of a 20% return on funds invested; omission of facts; and, failure to disclose. The causes of action relate to the purchase of unspecified stocks and stock options in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$80,000.00, plus punitive damages in the amount of \$20,000.00.

Respondents requested attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Donner did not file with NASD Dispute Resolution a properly executed submission to arbitration but is 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, is bound by the determinations of the Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Claimant's claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and Respondents' request for attorney's fees, 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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

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

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

December 10-11, 2003, adjournment requested by Claimant = \$750.00 waived by the Panel.

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 incurred in this matter.

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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: October 15, 2003 1 session	
October 23, 2003 1 session	

One (1) Pre-hearing session with the Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: August 12, 2003 1 session	

Three (3) Hearing sessions @ \$750.00	= \$2,250.00
Hearing Dates: March 9, 2004 2 sessions	
March 10, 2004 1 session	

Total Forum Fees	= \$3,900.00
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The Panel has assessed \$1,950.00 of the forum fees to Claimant.

The Panel has assessed \$1,950.00 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 are 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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,950.00
Total Fees	= \$ 2,175.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondent Montauk is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,950.00
<u>Total Fees</u>	= \$1,950.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,950.00

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

ARBITRATION PANEL

Robert K. Ruskin, Esq.	-	Public Arbitrator, Presiding Chairperson
Sheldon Glassberg, Esq.	-	Public Arbitrator
Alfred P. Reeves, III	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

03/11/04

Robert K. Ruskin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

03/11/04

Sheldon Glassberg, Esq.
Public Arbitrator

Signature Date

/s/

03/11/04

Alfred P. Reeves, III
Non-Public Arbitrator

Signature Date

03/12/04

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

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,950.00
<u>Total Fees</u>	= \$1,950.00
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Public Arbitrator, Presiding Chairperson

March 11, 2004
Signature Date

Sheldon Glassberg, Esq.
Public Arbitrator

Signature Date

Alfred P. Reeves, III
Non-Public Arbitrator

Signature Date

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3-11-04

Signature Date

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