
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-00770

Greg Braunstein
Susan T. Braunstein
Greg Braunstein DMD, PA, Trustee Greg
Braunstein Pension Plan Dated 10/31/79
Greg Braunstein DMD, PA, Profit Sharing
Plan and Trust Dated 10/31/79

Names of the Respondents

Hearing Site: Boca Raton, Florida

Janney Montgomery Scott LLC
James Peter Rishe

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

REPRESENTATION OF PARTIES

For Greg Braunstein, Susan T. Braunstein, Greg Braunstein DMD, PA, Trustee Greg Braunstein Pension Plan Dated 10/31/79, and Greg Braunstein DMD, PA, Profit Sharing Plan and Trust Dated 10/31/79, hereinafter collectively referred to as "Claimants": Kenneth S. Sandler, Esq., Hollywood, FL.

For Respondents Janney Montgomery Scott LLC ("JMS") and James Peter Rishe ("Rishe"), hereinafter collectively referred to as "Respondents": Paula D. Shaffner, Esq., Saul Ewing LLP, Philadelphia, PA.

CASE INFORMATION

Statement of Claim filed on or about: February 3, 2003.
Claimants signed the Uniform Submission Agreement: January 15, 2003.
Statement of Answer filed by Respondents on or about: May 7, 2003.
Respondent JMS signed the Uniform Submission Agreement: March 21, 2003.
Respondent Rishe did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; breach of fiduciary duty; lack of supervision; negligence; and, unsuitability. The causes of action relate to the purchase of unspecified securities products in Claimants' accounts.

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 \$786,207.11, pre-judgment interest, and costs.

Respondents requested dismissal of the Statement of Claim, that the costs of this proceeding be assessed against Claimants, and expungement of all references to the above-captioned arbitration from Respondent Rishe's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Rishe did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement 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 determination of the undersigned arbitrators (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:

Claimants' Statement of Claim is dismissed, with prejudice.

The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Rishe's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Rishe must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein 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 = \$ 375.00

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 JMS is a member firm and a party.

Member surcharge = \$ 2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 4,000.00

Total Member Fees = \$ 7,000.00

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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: January 30, 2004 1 session	
One (1) Pre-hearing session with the Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: September 10, 2003 1 session	
Five (5) Hearing sessions @ \$1,200.00	= \$ 6,000.00
Hearing Date: May 5, 2004 3 sessions	
May 6, 2004 2 sessions	
Total Forum Fees	= \$ 7,650.00

The Panel has assessed \$3,060.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$4,590.00 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	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 3,060.00</u>

Total Fees	= \$ 3,435.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,860.00

Respondent JMS is solely liable for:

<u>Member Fees</u>	<u>= \$ 7,000.00</u>
Total Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents JMS and Rishe are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 4,590.00</u>
Total Fees	= \$ 4,590.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,590.00

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

ARBITRATION PANEL

Richard W. Epstein, Esq.	-	Public Arbitrator, Presiding Chairperson
Neale J. Poller, Esq.	-	Public Arbitrator
Mary H. Cory	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Richard W. Epstein, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Neale J. Poller, Esq.
Public Arbitrator

Signature Date

/s/
Mary H. Cory
Non-Public Arbitrator

Signature Date

May 12, 2004
Date of Service (For NASD Dispute Resolution office use only)

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Mary H. Cory	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Richard W. Epstein, Esq.
Public Arbitrator, Presiding Chairperson

May 11, 2004
Signature Date

Neale J. Poller, Esq.
Public Arbitrator

Signature Date

Mary H. Cory
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution

Arbitration No. 03-00770

Award Page 4 of 4

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Neale J. Poller, Esq.	-	Public Arbitrator
Mary H. Cory	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard W. Epstein, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Neale J. Poller, Esq.
Public Arbitrator



Signature Date

Mary H. Cory
Non-Public Arbitrator

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Richard W. Epstein, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Neale J. Poller, Esq.
Public Arbitrator

Signature Date



Mary H. Cory
Non-Public Arbitrator

05-11-04

Signature Date

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