
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Anthony DePasquale

Case Number: 03-00880

Name of the Respondent
Prime Capital Services, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member Firm.

REPRESENTATION OF PARTIES

Anthony DePasquale ("DePasquale"), hereinafter referred to as "Claimant", appeared pro se.

For Prime Capital Services, Inc. ("Prime Capital"), hereinafter referred to as "Respondent": William Zeena, Jr., Esq., Wilson, Elser, Moskowitz, Edelman & Dicker LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 6, 2003.

Claimant signed but did not date the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: May 19, 2003.

Respondent signed the Uniform Submission Agreement: April 30, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: failure to execute and breach of contract. The causes of action relate to Respondent's failure to remove Claimant from a managed money investment program when requested to do so by Claimant.

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$20,408.55 and punitive damages of \$20,000.00.

Respondent requested that Claimant's claims be dismissed in their entirety and any such other relief that the Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing, on February 2, 2004, Respondent moved to dismiss the statement of claim or, in the alternative, to reduce by 50% any damages that may be awarded by reason of the fact that Claimant is the sole complainant in the case but the account in question is held jointly with his wife. The Arbitrator denied said motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable for its failure to comply with Claimant's request to move his assets from managed status to a money market account and breach of contract.

Respondent shall pay to Claimant compensatory damages of \$2,565.00 plus interest at the rate of nine percent (9%) per annum from April 23, 2002 until the date of service of the Award.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 175.00
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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, Respondent Prime Capital is a member firm and a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

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 Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 per session	= \$ 900.00
Pre-hearing conferences: September 15, 2003 1 session	
December 9, 2003 1 session	
Two (2) Hearing sessions @ \$450.00 per session	= \$ 900.00
Hearing Date: February 2, 2004 2 sessions	
Total Forum Fees	= \$1,800.00

The Arbitrator assessed forum fees of \$900.00 to Claimant.

The Arbitrator assessed forum fees of \$900.00 to Respondent.

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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,075.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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Respondent is solely liable for:

Member Fees	= \$2,625.00
<u>Forum Fees</u>	<u>= \$ 900.00</u>
Total Fees	= \$3,525.00
<u>Less payments</u>	<u>= \$2,625.00</u>
Balance Due NASD Dispute Resolution	= \$ 900.00

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

ARBITRATOR

Frank Brenner

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

/s/
Frank Brenner
Public Arbitrator, Presiding Chairperson

02/05/04
Signature Date

02/06/04
Date of Service (For NASD Dispute Resolution office use only)

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Respondent is solely liable for:

Member Fees	= \$2,625.00
Forum Fees	= \$ 900.00
Total Fees	= \$3,525.00
Less payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 900.00

All balances are payable to NASD Dispute Resolution and are due from respondent pursuant to Rule 1007 of the Code.

ARBITRATOR

Frank Brenner

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature



Frank Brenner
Public Arbitrator, Presiding Chairperson

2-5-04
Signature Date

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