
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Nicholas Villalba

Case Number: 03-00959

Name of the Respondent
Kenneth Brown

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Associated Person.

REPRESENTATION OF PARTIES

For Nicholas Villalba, hereinafter referred to as "Claimant": Scott L. Silver, Esq., Blum, Silver & Schwartz, LLP, Plantation, Florida.

For Kenneth Brown, hereinafter referred to as "Respondent": Russell L. Forkey, Esq., Russell L. Forkey, P.A., Ft. Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 10, 2003.

Claimant signed the Uniform Submission Agreement: January 21, 2003.

Motion to Dismiss for Lack of Jurisdiction, Answer and Affirmative Defenses filed by Respondent on or about: May 13, 2003.

Response to Motion to Dismiss for Lack of Jurisdiction filed by Claimant on or about: October 14, 2003.

Reply in Response to Motion to Dismiss for Lack of Jurisdiction filed by Respondent on or about: October 16, 2003.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violation of industry rules; violation of Section 517.301 of the Florida Statutes; breach of contract; breach of fiduciary duty; common law fraud; negligence; and, churning. The causes of action relate to the purchase and sale of shares of unspecified speculative securities in Claimant's account.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim, asserted various defenses and asserted a Motion to Dismiss the Statement of Claim on the bases that Respondent did not agree to arbitrate this matter with Claimant and the Statement of Claim failed to state a cause of action against Respondent.

*In response to the Motion to Dismiss, Claimant denied the assertions therein.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00, plus interest at the legal rate from the date of purchase or reasonable market return, rescission, attorney's fees to be determined by a court of competent jurisdiction, punitive damages, costs and any other relief deemed just and proper.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety and enter an Award of attorney's fees in his favor together with any other relief deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent 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, is bound by the determinations of the Panel on all issues submitted.

On or about November 6, 2003, the Panel issued an order which denied Respondent's Motion to Dismiss for Lack of Jurisdiction.

On or about May 26, 2004, the parties submitted a Stipulation for Settlement with a request that the Panel enter a Stipulated Award expunging all references to this matter from Respondent's registration records maintained by the NASD Central Registration Depository ("CRD").

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

AWARD

After considering the pleadings, the Stipulation for Settlement and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed, with prejudice.

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

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 = \$ 300.00

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 K. W. Brown Investments employed Respondent at the time of the events giving rise to the dispute.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$2,750.00 |

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

June 15-18, 2004, adjournment requested by all parties = \$ 1,125.00 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:

| | |
|---|--------------|
| One (1) Pre-hearing session with the Panel @ \$1,125.00 | = \$1,125.00 |
| Pre-hearing conference: September 30, 2003 1 session | |
| Total Forum Fees | = \$1,125.00 |

The Panel has assessed \$562.50 of the forum fees to Claimant.

The Panel has assessed \$562.50 of the forum fees 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 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:

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|-------------------------------------|-------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 562.50 |
| Total Fees | = \$ 862.50 |
| Less payments | = \$ 862.50 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondent is solely liable for:

| | |
|-------------------------------------|-------------|
| Forum Fees | = \$ 562.50 |
| Total Fees | = \$ 562.50 |
| Less payments | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 562.50 |

Non-party K.W. Brown Investments is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 5,200.00 |
| Total Fees | = \$ 5,200.00 |
| Less payments | = \$ 5,200.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

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

ARBITRATION PANEL

| | | |
|---------------------------|---|--|
| Michael R. Emery, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Elizabeth L. Clark | - | Public Arbitrator |
| Jonathan E. Perlman, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

/s/

06/23/04

Michael R. Emery, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

06/16/04

Elizabeth L. Clark
Public Arbitrator

Signature Date

/s/

06/16/04

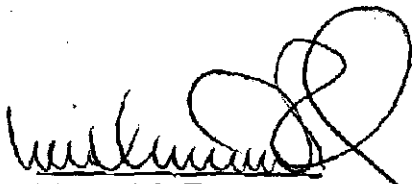
Jonathan E. Perlman, Esq.
Non-Public Arbitrator

Signature Date

06/25/04

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

Concurring Arbitrators' Signatures



Michael R. Emery, Esq.
Public Arbitrator, Presiding Chairperson

6-23-04
Signature Date

Elizabeth L. Clark
Public Arbitrator

Signature Date

Jonathan E. Perlman, Esq.
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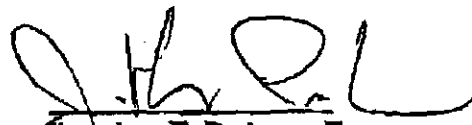
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