

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Edgetrade.com, Inc. (Claimant) v. Kenneth Denslow, Paul Leavy, Casey Ackerman, Andover Brokerage, LLC, and Andover Capital Partners, LLC (Respondents)

Case Number: 03-01485

Hearing Site: New York, New York

Nature of the Dispute: Member v. Members and Associated Persons.

REPRESENTATION OF PARTIES

Claimant Edgetrade.com, Inc. ("Edgetrade") hereinafter referred to as "Claimant": Neal M. Goldman, Esq. and Elliot Sagor, Esq., Hogan & Hartson, LLP, New York, NY.

Respondent Casey Ackerman ("Ackerman"): Carl G. Guida, Esq., Skadden, Arps, Slate, Meagher & Flom, LLP, New York, NY.

Respondents Kenneth Denslow ("Denslow") and Paul Leavy ("Leavy"): Louis M. Lagalante, Esq., Gallagher, Harnett & Lagalante, LLP, New York, NY.

Respondent Andover Capital Partners, LLC ("ACP"): Jay N. Varon, Esq., Foley & Lardner, Washington, D.C.

Respondent Andover Brokerage, LLC ("Andover"): Frank Viola, Esq., Viola, Benedetti, Azzolini & Morano, Florham Park, NJ.

Ackerman, Denslow, Leavy, ACP, and Andover are hereinafter referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2003.

Claimant's Memorandum of Law in Support of its Application for Temporary Restraining Order and Motion for a Preliminary Injunction filed on or about: March 4, 2003.

Order to Show Cause filed by Claimant on or about: March 17, 2003.

Amended Statement of Claim filed on or about: March 24, 2003.

Claimant signed the Uniform Submission Agreement: February 28, 2003.

Opposition to Claimant's Application for Injunctive Relief in Aid of Arbitration filed by Ackerman on or about: March 14, 2003.

Ackerman did not sign the Uniform Submission Agreement.

Joint Opposition to Claimant's Petition for Preliminary Injunctive Relief in Aid of Arbitration filed by Denslow and Leavy on or about: March 14, 2003.

Denslow did not sign the Uniform Submission Agreement.

Leavy did not sign the Uniform Submission Agreement.

Statement of Answer to Amended Statement of Claim filed by ACP on or about: April 10, 2003.

ACP signed the Uniform Submission Agreement: April 14, 2003.

Andover did not file a Statement of Answer or sign a Uniform Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following causes of action: breach of contract; raiding; and breach of fiduciary duty;

Unless specifically admitted in his Opposition to Claimant's Application for Injunctive Relief in Aid of Arbitration, Ackerman denied the allegations of wrongdoing set forth in the Statement of Claim.

Unless specifically admitted in their Opposition to Claimant's Petition for Preliminary Injunctive Relief in Aid of Arbitration, Denslow and Leavy denied the allegations of wrongdoing set forth in the Statement of Claim.

Unless specifically admitted in its Statement of Answer to the Amended Statement of Claim, ACP denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested unspecified monetary damages; attorneys' fees and costs; specific performance of the Confidentiality and Non-Competition Agreements entered into with the Individual Respondents and requests a permanent injunction barring Respondents from violating the terms of those agreements; and such other and further relief as deemed just, proper, and equitable.

In his Opposition, Ackerman requested that Edgetrade's application for injunctive relief be denied in its entirety.

In their Opposition, Denslow and Leavy requested that Edgetrade's application for injunctive relief be denied in all respects.

In its Answer to the Amended Statement of Claim, ACP requested that the Amended Statement

of Claim be dismissed, with all forum fees and other expenses to be paid by Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Andover has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Ackerman, Denslow, and Leavy did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On or about May 6, 2003, Claimant filed a Stipulation of Dismissal dismissing all claims against Ackerman with prejudice.

By letter dated May 19, 2003, Claimant's counsel advised NASD Dispute Resolution that the parties had entered into a settlement agreement.

On or about February 2, 2004, the parties submitted a Joint Motion of Edgetrade, Denslow and Leavy for Entry of Expungement Award and a Proposed Award for the Panel's approval. These documents are annexed as Exhibits "A" and "B".

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel recommends the expungement of the following items in the Form U-5s from Respondents Kenneth Denslow's and Paul Leavy's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Denslow and Leavy must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive: The affirmative response to Question 7(b) provided by Edgetrade in the Form U-5s of Respondents Denslow and Leavy be expunged and changed to "No" as the "internal review"

disclosed in the Form U-5s was of a competitive nature, and not of a compliance nature;

2. The joint motion filed by Claimant and Respondents Denslow and Leavy seeking an expungement award is hereby granted;
3. Upon proper compliance with all applicable NASD procedures, including obtaining an order from a court of competent jurisdiction confirming this Award, any and all references in the Form U-5s of Respondents Denslow and Leavy concerning Edgetrade's affirmative response to Question 7(b) shall, without delay, be permanently changed and/or expunged by the NASD from the record of the Central Registration Depository, as follows:
 - a. Question 7(b), which has been answered "Yes" be expunged and changed to a "No" response;
 - b. All information disclosed by Edgetrade in the Internal Review DRPs explaining Edgetrade's "Yes" answer to Question 7(b) shall be permanently and completely expunged, so that no such information will remain in the Form U-5s of either Respondent Denslow or Leavy.
- 4 Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$500.00
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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 persons at the time of the events giving rise to the dispute. In this matter, Edgetrade.com is a party.

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$2,200.00
Total Member Fees	= \$4,450.00

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, Andover Capital Partners, LLC is a party.

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

Member fees are assessed to each member firm, or participating terminated member, that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, Andover Brokerage, LLC is a party.

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

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 of 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.

1. Edgetrade is assessed:

Injunctive relief surcharge	= \$2,500.00
Additional arbitrator honoraria	= \$ 50.00
2. Ackerman is assessed:

Additional arbitrator honoraria	= \$ 50.00
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3. Denslow is assessed:

Additional arbitrator honoraria	= \$ 50.00
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4. Leavy is assessed:

Additional arbitrator honoraria	= \$ 50.00
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5. ACP is assessed:

Additional arbitrator honoraria	= \$ 50.00
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6. Andover is assessed:

Additional arbitrator honoraria	= \$ 50.00
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Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conferences with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences: April 24, 2003 1 session	
May 12, 2003 1 session	
One (1) Pre-hearing conference with the Panel @ \$1,000.00/session	= \$1,000.00
Pre-hearing conference: May 6, 2003 1 session	
One (1) Hearing session @ \$1,000.00/session	= \$1,000.00
Hearing: March 18, 2003 1 session	
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Total Forum Fees	= \$2,900.00

1. The Panel has assessed \$531.66 of the forum fees against Claimant.
2. The Panel has assessed \$241.66 of the forum fees against Ackerman.
3. The Panel has assessed \$531.66 of the forum fees against Denslow.
4. The Panel has assessed \$531.66 of the forum fees against Leavy.
5. The Panel has assessed \$531.66 of the forum fees against ACP.
6. The Panel has assessed \$531.66 of the forum fees against Andover.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$4,450.00
Injunctive Relief Surcharge	= \$2,500.00
Additional Arbitrator Honoraria	= \$ 50.00
<u>Forum Fees</u>	= \$ 531.66
Total Fees	= \$8,031.66
<u>Less payments</u>	= \$8,450.00
Refund Due to Claimant	= \$ 418.34
2. Ackerman is solely liable for:

Additional Arbitrator Honoraria	= \$ 50.00
<u>Forum Fees</u>	= \$ 241.66
Total Fees	= \$ 291.66
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 291.66

3. Denslow is solely liable for:

Additional Arbitrator Honoraria	= \$ 50.00
Forum Fees	= \$ 531.66
Total Fees	= \$ 581.66
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 581.66

4. Leavy is solely liable for:

Additional Arbitrator Honoraria	= \$ 50.00
Forum Fees	= \$ 531.66
Total Fees	= \$ 581.66
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 581.66

5. ACP is solely liable for:

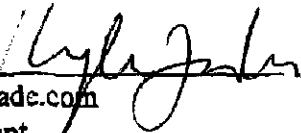
Member Fees	= \$4,450.00
Additional Arbitrator Honoraria	= \$ 50.00
Forum Fees	= \$ 531.66
Total Fees	= \$5,031.66
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 581.66

6. Andover is solely liable for:

Member Fees	= \$4,450.00
Additional Arbitrator Honoraria	= \$ 50.00
Forum Fees	= \$ 550.00
Total Fees	= \$5,031.66
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$5,031.66

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures



Edgetrade.com
Claimant

4/6/04

Signature Date

Kenneth Denslow
Respondent

Signature Date

Paul Leavy
Respondent

Signature Date

Andover Capital Partners, LLC
Respondent

Signature Date

Parties' Signatures

Edgetrade.com
Claimant

For Louis M. Paglate
Kenneth Denslow
Respondent

For Louis M. Paglate
Paul Leavy
Respondent

Signature Date

5/28/04

Signature Date

5/28/04

Signature Date

Andover Capital Partners, LLC
Respondent

Signature Date

Parties' Signatures

Edgetrade.com
Claimant

Signature Date

Kenneth Denslow
Respondent

Signature Date

Paul Leavy
Respondent

Signature Date

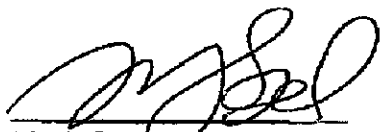
for Ray N. Varn
Andover Capital Partners, LLC
Respondent

4/8/04
Signature Date

ARBITRATION PANEL

Martin Jay Siegel, Esq.	-	Public Arbitrator, Presiding Chair
Richard W. Vallario, Esq.	-	Public Arbitrator
Barbara J. Glenns, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Martin Jay Siegel, Esq.
Public Arbitrator, Presiding Chair



Signature Date

Richard W. Vallario, Esq.
Public Arbitrator

Signature Date

Barbara J. Glenns, Esq.
Non-Public Arbitrator

Signature Date

June 16, 2004

Date of Service (For NASD office use only)

ARBITRATION PANEL

Martin Jay Siegel, Esq.	-	Public Arbitrator, Presiding Chair
Richard W. Vallario, Esq.	-	Public Arbitrator
Barbara J. Glenns, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Martin Jay Siegel, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Richard W. Vallario, Esq.
Public Arbitrator

6/15/04

Signature Date

Barbara J. Glenns, Esq.
Non-Public Arbitrator

Signature Date

June 16, 2004

Date of Service (For NASD office use only)

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Richard W. Vallario, Esq.	-	Public Arbitrator
Barbara J. Glenns, Esq.	-	Non-Public Arbitrator

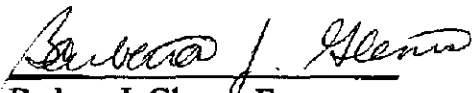
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Martin Jay Siegel, Esq.
Public Arbitrator, Presiding Chair

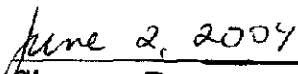
Signature Date

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Public Arbitrator

Signature Date



Barbara J. Glenns, Esq.
Non-Public Arbitrator



Signature Date

June 16, 2004

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