

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Charles Mudrak

v.

03-01702

Minneapolis, Minnesota

Respondents

New England Securities Corporation
and New England Financial

Nature of Dispute: Customer v. Member and Non-Member

REPRESENTATION OF PARTIES

Charles Mudrak ("**Claimant**") was represented by Harvey H. Eckart, Esq., of the Harvey Eckart Law Offices, St. Paul, Minnesota.

New England Securities Corporation ("**New England Securities**"), hereinafter referred to as ("**Respondent**") was represented by Anna M. Thoresen, Esq., of Faegre & Benson, Minneapolis, Minnesota.

New England Financial ("**New England Financial**") did not appear.

CASE INFORMATION

The Statement of Claim was filed on or about March 5, 2003. Submission Agreement of Claimant was signed on or about December 12, 2002.

Statement of Answer was filed by Respondent New England Securities Corporation on or about May 21, 2003. Submission Agreement of Respondent New England Securities Corporation was signed on or about May 16, 2003.

CASE SUMMARY

Claimant asserted causes of action including the following: breach of contract, negligence, suitability, failure to supervise, and respondeat superior liability. The causes of action related to Claimant's allegation that Respondents invested him into volatile, speculative investments, concentrating his investments in sector oriented mutual funds, despite Claimant's goals of preservation of capital.

Respondent denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimant's claims are barred by the applicable statutes of estoppel, assumption of risk, ratification, waiver, and because he cannot establish that his alleged damages were caused by Respondent and not by the volatility of the securities markets in 2001 and 2002.

RELIEF REQUESTED

Claimant requested an award in the amount of \$35,000 in compensatory damages. In addition Claimant requested for a disgorgement of all commissions or fees, interest, attorney's fees, costs and any other relief that the Panel deem just and equitable.

Respondent requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

New England Financial is neither a member nor an associated person of an NASD member firm. NASD Dispute Resolution also did not receive neither a contract to arbitrate nor voluntary submission from New England Financial. Therefore, the Panel did not adjudicate any of the claims asserted against New England Financial.

At the start of the Arbitration hearing, all parties agreed to proceed forward with two arbitrators, due to Arbitrator Steven E. Reichert's unavailability, and agreed to the Panel's composition.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

1. Claimant's claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and

3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 175

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, the member firm is New England Securities Corporation.

Member surcharge	= \$ 875
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 1,000

Forum Fees and Assessments

The Arbitration 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$ 600 = \$ 600

Pre-hearing conference: 08/28/2003 1 session

Three (3) Hearing sessions with Panel x \$ 600 = \$ 1,800

Hearing Dates:	12/15/2003	2 sessions
	12/16/2003	1 session

Total Forum Fees = \$ 2,400

The Arbitration Panel has assessed \$ 1,200 of the forum fees to Charles Mudrak.

The Arbitration Panel has assessed \$ 1,200 of the forum fees to New England Securities Corporation.

Fee Summary

Claimant, Charles Mudrak is liable for:

Initial Filing Fee	= \$ 175
<u>Forum Fees</u>	<u>= \$ 1,200</u>
Total Fees	= \$ 1,375
<u>Less payments</u>	<u>= \$ 775</u>
Balance Due NASD Dispute Resolution	= \$ 600

Respondent, New England Securities Corporation, is liable for:

Member Fees	= \$ 2,625
<u>Forum Fees</u>	<u>= \$ 1,200</u>
Total Fees	= \$ 3,825
<u>Less payments</u>	<u>= \$ 5,000</u>
Balance Refunded By NASD Dispute Resolution	= \$ 1,175

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Earl B. Gustafson - Public Arbitrator, Presiding Chair
Michael J. Madden- Non-Public Arbitrator

Concurring Arbitrators:

Earl B. Gustafson
Public Arbitrator, Presiding Chair

Signature Date

Michael J. Madden
Non-Public Arbitrator

Signature Date

1/12/04
Date of Service (NASD use only)

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Michael J. Madden - Non-Public Arbitrator

Concurring Arbitrators:

Earl B. Gustafson
Earl B. Gustafson
Public Arbitrator, Presiding Chair

1/10/04
Signature Date

Michael J. Madden
Michael J. Madden
Non-Public Arbitrator

Signature Date

1/12/04
Date of Service (NASD use only)

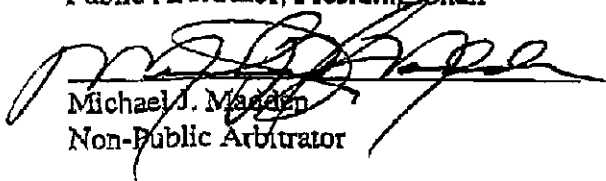
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Michael J. Madden - Non-Public Arbitrator

Concurring Arbitrators:

Earl B. Gustafson
Public Arbitrator, Presiding Chair

Signature Date



Michael J. Madden
Non-Public Arbitrator

1/5/04

Signature Date

1/12/04

Date of Service (NASD use only)