

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sean MacDonald and Adam Silver (Claimants) v. A.B. Watley, Inc. (Respondent)

Case Number: 03-02644

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customers v. Member.

REPRESENTATION OF PARTIES

Claimants Sean MacDonald ("S. MacDonald") and Adam Silver ("A. Silver") hereinafter collectively referred to as "Claimants" appeared *pro se* through Sean MacDonald.

Respondent A.B. Watley, Inc. ("ABW") hereinafter referred to as "Respondent": Robert F. Malin, A.B. Watley, Inc. Previously represented by: Michael H. Ference, Esq., Sichenzia Ross Friedman Ference, LLP, New York, NY.

CASE INFORMATION

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

Reply to Respondent's Counterclaim filed.

Claimants signed the Uniform Submission Agreement: March 20, 2003.

Statement of Answer and Counterclaim filed by Respondent on or about: May 23, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: failure to execute; unauthorized trading; negligence; errors/charges; failure to supervise; margin calls; manipulation; and sell-outs. Claimants' claim involved common stock and options.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Counterclaim, Respondent asserted the following cause of action: debit balance.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$15,000.00; punitive damages in the amount of \$8,000.00; costs in the amount of \$750.00; and attorneys' fees in the amount of \$1,000.00.

Respondent requested that Claimant's Statement of Claim be dismissed in its entirety and grant it damages in the amount of \$5,780.35 on its Counterclaim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

AWARD

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

1. Respondent is liable for and shall pay to Claimants compensatory damages in the amount of \$ 6,219.69.
2. Respondent's counterclaim is hereby dismissed in its entirety.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$ 125.00
Counterclaim filing fee	= \$ 500.00

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. Accordingly, A. B. Watley, Inc. is a party.

Member surcharge	= \$ 425.00
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Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 2-3, 2004, adjournment by Respondent	= \$ 450.00
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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 the arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: October 30, 2003 1 session	
March 2, 2004 1 session	

One (1) Hearing session @ \$450.00	= \$ 450.00
Hearing Date: June 29, 2004 1 session	
Total Forum Fees	= \$ 1,350.00

1. The Arbitrator has assessed \$ 675.00 of the forum fees against Claimants.
2. The Arbitrator has assessed \$ 675.00 of the forum fees against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 125.00
Adjournment Fee	= \$ 450.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 1,250.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 675.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$ 425.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 1,600.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 1,175.00

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

ARBITRATOR


Richard J. Grahn, Esq.

- Sole Public Arbitrator

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Arbitrator's Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Richard J. Gahn, Esq.
Sole Public Arbitrator

7/1/04
Signature Date

July 1, 2004

Date of Service (For NASD Dispute Resolution use only)