

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sarah Friedman (Claimant) v. Gruntal & Co., L.L.C., Michael Friedman, Robert Rittreiser, Lee Fensterstock, Henry Gottmann, Joanne Marren, Stephen Byers, Saul Federman, and Abe Borenstein (Respondents)

Case Number: 03-02832

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Sarah Friedman ("S. Friedman") hereinafter referred to as "Claimant": John T. McGuire, Esq., previously Andrew J. Kohler, Esq., John T. McGuire & Associates, P.C., New York, NY.

Respondents Robert Rittreiser ("R. Rittreiser"), Lee Fensterstock ("L. Fensterstock"), Henry Gottmann ("H. Gottmann"), Joanne Marren ("J. Marren"); Stephen Byers ("S. Byers"), Saul Federman ("S. Federman"), and Abe Borenstein ("A. Borenstein"): Victor H. Sigoura, Esq., Greenberg Traurig, LLP, New York, NY.

Respondent Michael Friedman ("M. Friedman") did not enter an appearance in this matter.

R. Rittreiser, L. Fensterstock, H. Gottmann, J. Marren, S. Byers, S. Federman, A. Borenstein, and M. Friedman are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: April 15, 2003.

Claimant signed the Uniform Submission Agreement: April 9, 2003.

Joint Statement of Answer and Motion to Dismiss filed by Respondents R. Rittreiser, L. Fensterstock, H. Gottmann, J. Marren, S. Byers, S. Federman, and A. Borenstein on or about: September 11, 2003.

Respondent R. Rittreiser did not sign the Uniform Submission Agreement.

Respondent L. Fensterstock did not sign the Uniform Submission Agreement.

Respondent H. Gottmann did not sign the Uniform Submission Agreement.

Respondent J. Marren did not sign the Uniform Submission Agreement.

Respondent S. Byers did not sign the Uniform Submission Agreement.

Respondent S. Federman did not sign the Uniform Submission Agreement.

Respondent A. Borenstein did not sign the Uniform Submission Agreement.

Respondent M. Friedman did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: negligence; breach of fiduciary duty; failure to supervise; breach of contract; fraud; and securities fraud. Claimant's claim involved unspecified securities.

Unless specifically admitted in their Answer, Respondents R. Rittereiser, L. Fensterstock, H. Gottmann, J. Marren, S. Byers, S. Federman, and A. Borenstein denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$2,300,000.00; plus commissions paid of \$80,000.00; punitive damages in the amount of \$6,900,000.00; attorneys' fees; costs; prejudgment interest at 9%; and any other damages the Panel may deem just and fair.

Respondents R. Rittereiser, L. Fensterstock, H. Gottmann, J. Marren, S. Byers, S. Federman, and A. Borenstein requested that the Panel dismiss this claim in its entirety; expunge this claim from the CRDs of the Answering Respondents; and grant such other and further relief, including attorneys' fees and costs incurred, as it deems just and proper.

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 M. Friedman 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 R. Rittereiser, L. Fensterstock, H. Gottmann, J. Marren, S. Byers, S. Federman, and A. Borenstein did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about October 29, 2002, Gruntal & Co., LLC filed for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. Therefore, all claims against Gruntal & Co., L.L.C. are stayed.

On or about August 26, 2003, NASD Dispute Resolution was notified that Claimant withdrew her claims against Respondent S. Byers, without prejudice.

After the telephonic pre-hearing conference held on May 14, 2004, the Panel determined to dismiss this matter.

Arbitrator Bowie Mena dissented from the majority opinion of the Panel.

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.

AWARD

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

1. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

DISSENTING OPINION

Arbitrator Bowie Mena dissented from the majority of the Panel on its decision to grant the motion to dismiss. Arbitrator Bowie Mena was of the opinion that Claimant should have the opportunity to be heard at a hearing on the merits.

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	= \$600.00
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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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$3,600.00
Pre-hearing conferences:	
March 8, 2004	1 session
March 25, 2004	1 session
May 14, 2004	1 session
<hr/> Total Forum Fees	<hr/> = \$3,600.00

1. The Panel has assessed \$1,800.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,800.00 of the forum fees jointly and severally against Respondents R. Rittereiser, L. Fensterstock, H. Gottmann, J. Marren, S. Federman, and A. Borenstein.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$1,800.00</u>
Total Fees	= \$2,400.00
<u>Less payments</u>	<u>= \$1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 600.00
2. Respondents R. Rittereiser, L. Fensterstock, H. Gottmann, J. Marren, S. Federman, and A. Borenstein are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,800.00</u>
Total Fees	= \$1,800.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,800.00

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

ARBITRATION PANEL

Peter C. Dinos	-	Public Arbitrator, Presiding Chairperson
April D. Bowie Mena, Esq.	-	Public Arbitrator
Noreen M. Fitzgerald	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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 is which is my award.

Peter C. Dinos
Peter C. Dinos
Public Arbitrator, Presiding Chairperson

August 3, 2004
Signature Date

Noreen M. Fitzgerald
Non-Public Arbitrator

Signature Date

Dissenting 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 is which is my award.

April D. Bowie Mena, Esq.
Public Arbitrator

Signature Date

August 6, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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April D. Bowie Mena, Esq.	-	Public Arbitrator
Noreen M. Fitzgerald	-	Non-Public Arbitrator

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Noreen M. Fitzgerald
Non-Public Arbitrator

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April D. Bowie Mena, Esq.
Public Arbitrator

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Peter C. Dinos
Public Arbitrator, Presiding Chairperson

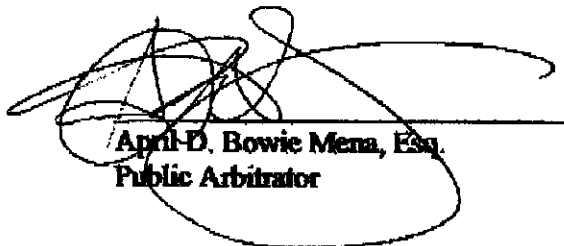
Signature Date

Noreen M. Fitzgerald
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

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April D. Bowie Mena, Esq.
Public Arbitrator

7/30/04
Signature Date

August 6, 2004

Date of Service (For NASD Dispute Resolution use only)