

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert W. Robinson and Janet E. Robinson (Claimants) v. Capital Securities of America, Inc.,
K. Michael Nunley, and B. Anne Zimmer-Graffice (Respondents)

Case Number: 03-03064

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimants Robert W. Robinson and Janet E. Robinson (the "Robinsons") and Robert W. Robinson ("R. Robinson") hereinafter collectively referred to as "Claimants": J. Michael Gatien, Esq., N. Canton, OH.

Respondent Capital Securities of America, Inc. ("Capital Securities"): Craig G. Pelini, Esq. of Pelini & Fischer, Ltd., located in N. Canton, OH.

Respondents K. Michael Nunley ("Nunley") and B. Anne Zimmer-Graffice ("Zimmer-Graffice"): Michael A. Gross, Esq., Ulmer & Berne, LLP, Cleveland, OH.

Capital Securities, Nunley, and Zimmer-Graffice are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: April 22, 2003.

Claimants signed the Uniform Submission Agreement: April 21, 2003.

Statement of Answer filed by Capital Securities on or about: June 24, 2003.

Respondent Capital Securities signed the Uniform Submission Agreement: June 24, 2003.

Joint Statement of Answer filed by Respondents Nunley and Zimmer-Graffice on or about: June 20, 2003.

Respondent Nunley signed the Uniform Submission Agreement: June 17, 2003.

Respondent Zimmer-Graffice signed the Uniform Submission Agreement: June 17, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violation of NASD rules; failure to supervise; common law negligence or fraud; breach of contract; breach of fiduciary duties; and breach of Ohio Revised Code. Claimants' claim involved common stock and mutual funds.

Unless specifically admitted in its Answer, Respondent Capital Securities denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$73,538.00; rescission of the trades at issue; punitive damages in the amount of \$225,000.00; lost opportunity; prejudgment interest pursuant to Ohio Revised Code § 1343.03 at the rate of 10% per annum from the date of Respondents breach of the brokerage agreement; expert witness fees; filing and forum fees; and such other relief that the Arbitrators deem to be appropriate in equity.

Respondent Capital Securities requested that the Panel dismiss any and all claims against it; that the Panel award its costs incurred; and delete this claim from the Central Registration Depository ("CRD") database.

Respondents Nunley and Zimmer-Graffice requested dismissal of Claimants' claims in their entirety; costs incurred, including reasonable attorneys' fee and forum fees, pursuant to § 2323.51 of the Ohio Revised Code, the common law of the State of Ohio, and this Panel's inherent authority; and that the Panel recommend the expungement of any and all references to this matter from their CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 7, 2004, Claimants notified NASD Dispute Resolution that the parties settled this matter and requested a Stipulated Award.

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. Each and every one of Claimants' claims asserted against Respondents is hereby dismissed with prejudice;

2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent K. Michael Nunley'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, Respondent Nunley must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent B. Anne Zimmer-Graffice'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, Respondent Zimmer-Graffice must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive; and
4. 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	= \$ 300.00
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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 person at the time of the events giving rise to the dispute. In this matter, Respondent Capital Securities is a member firm.

Member surcharge	= \$1,700.00
Pre-hearing processing fee	= \$ 750.00
<u>Hearing processing fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees

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:

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One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: November 18, 20031 1 session	
Total Forum Fees	= \$1,125.00

1. The Panel has assessed \$562.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less Payments</u>	= \$1,425.00
Refund due Claimants	= \$ 562.50
2. Respondent Capital Securities is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less Payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents Capital Securities, Nunley and Zimmer-Graffice are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less Payments</u>	= \$ 0.00
Balance due NASD Dispute Resolution	= \$ 562.50

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

Parties' Signatures

Robert W. Robinson
Claimant

Signature Date

Janet E. Robinson
Claimant

Signature Date

Capital Securities of America, Inc.
Respondent

Signature Date

K. Michael Nunley
Respondent

Signature Date

B. Anne Zimmer-Graffice
Respondent

Signature Date

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ARBITRATION PANEL

Elmer G. Cowan, Esq.	-	Public Arbitrator, Presiding Chairperson
Mitchell B. Goldberg, Esq.	-	Public Arbitrator
Ann W. Hartmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chairperson

JUL 23 2004

Signature Date

Mitchell B. Goldberg, Esq.
Public Arbitrator

Signature Date

Ann W. Hartmann
Non-Public Arbitrator

Signature Date

July 29, 2004
Date of Service (For NASD office use only)

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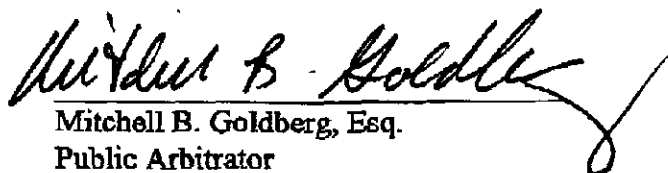
ARBITRATION PANEL

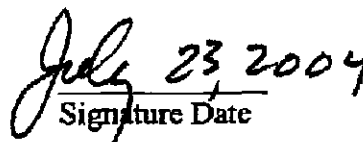
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Mitchell B. Goldberg, Esq.	-	Public Arbitrator
Ann W. Hartmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Mitchell B. Goldberg, Esq.
Public Arbitrator


Signature Date

Ann W. Hartmann
Non-Public Arbitrator

Signature Date

July 29, 2004
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Ann W. Hartmann	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Mitchell B. Goldberg, Esq.
Public Arbitrator

Signature Date

Ann W. Hartmann
Ann W. Hartmann
Non-Public Arbitrator

July 26, 2004
Signature Date

July 29, 2004
Date of Service (For NASD office use only)