

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Fred Fogwell (Claimant) v. Clifford J. Robson and McDonald Investments, Inc. (Respondents)

Case Number: 03-03330

Hearing Site: Cincinnati, Ohio

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

REPRESENTATION OF PARTIES

Claimant Fred Fogwell ("Fogwell") hereinafter referred to as "Claimant": Franklin R. Evans, Esq., Richman Law Offices, Cincinnati, OH.

Respondents Clifford J. Robson ("Robson") and McDonald Investments, Inc. ("McDonald Investments") hereinafter collectively referred to as "Respondents": Michael N. Ungar, Esq. and Michael A. Gross, Esq., Ulmer & Berne, LLP, Cleveland, OH.

CASE INFORMATION

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

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

Joint Statement of Answer filed by Respondents on or about: September 12, 2003.

Respondent Robson signed the Uniform Submission Agreement: August 11, 2003.

Respondent McDonald Investments signed the Uniform Submission Agreement: June 25, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; fraud; negligence; unsuitability; violations of state securities laws; violations of NASD Conduct Rules; breach of contract; and respondeat superior. The causes of action relate to shares of Earthlink, IMC Mortgage Co., Marvel Parent Holdings, Inc., and Verticalnet, Inc. as well as other unspecified securities.

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

RELIEF REQUESTED

Claimant requested unspecified compensatory damages; attorneys' fees and costs, including but not limited to expert witness fees, expenses and accounting fees; disgorgement of commissions;

lost interest as provided by the Ohio Securities Act; pre- and post-award interest; and punitive damages.

Respondents requested that the claim be dismissed in its entirety; attorneys' fees, costs, and forum fees; and that all references to this arbitration be expunged from Respondent Robson's Central Registration Depository records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 21, 2004, Claimant dismissed all claims against Respondent Robson with prejudice.

On or about September 23, 2004, NASD Dispute Resolution was notified that the parties settled this matter.

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. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Clifford J. Robson'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 Robson must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. All NASD fees will be paid by Respondent McDonald Investments.
4. In accordance with #3 above, Respondent McDonald Investments is liable for and shall pay to Claimant \$250.00 to reimburse Claimant for the non-refundable filing fee previously paid to NASD Dispute Resolution.
5. 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 = \$250.00

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. In this matter, McDonald Investments, Inc. 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

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:

One (1) Pre-hearing conference session with the Panel @ \$1,000.00/session = \$1,000.00

Pre-hearing conference: December 22, 2003 1 session

Total Forum Fees = \$1,000.00

1. The Panel has assessed \$1,000.00 of the forum fees against Respondent McDonald Investments.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
Total Fees	= \$ 250.00
<u>Less payments</u>	<u>= \$1,500.00</u>
Refund Due Claimant	= \$1,250.00

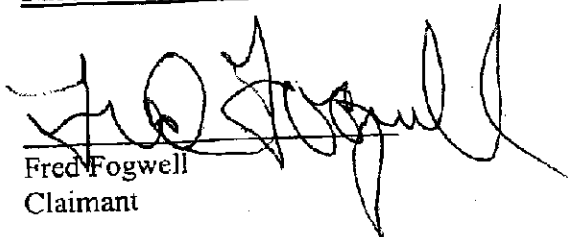
In accordance with the "Award" section above, Respondent McDonald Investments is liable for and shall pay to Claimant \$250.00 to reimburse Claimant for the non-refundable filing fee previously paid to NASD Dispute Resolution.

2. Respondent McDonald Investments is solely liable for:

Member Fees	= \$4,450.00
<u>Forum Fees</u>	<u>= \$1,000.00</u>
Total Fees	= \$5,550.00
<u>Less payments</u>	<u>= \$4,450.00</u>
Balance Due NASD Dispute Resolution	= \$1,000.00

All balances are due and payable to NASD Dispute Resolution

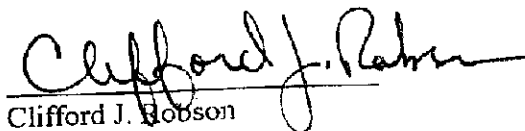
Parties' Signatures


Fred Fogwell
Claimant

10/29/04
Signature Date

McDonald Investments, Inc.
Respondent


Signature Date


Clifford J. Robson
Respondent

10/13/04
Signature Date

Parties' Signatures

Fred Fogwell
Claimant



McDonald Investments, Inc.
Respondent

Signature Date

10/20/04

Signature Date

Clifford J. Robson
Respondent

Signature Date

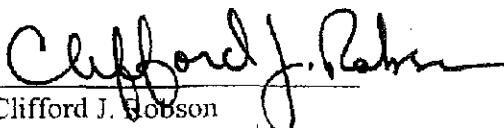
Parties' Signatures

Fred Fogwell
Claimant

Signature Date

McDonald Investments, Inc.
Respondent

Signature Date


Clifford J. Robson
Respondent


10/13/04
Signature Date

ARBITRATION PANEL

Mitchell B. Goldberg, Esq.	-	Public Arbitrator, Presiding Chair
K. Steve Kimball, CFA	-	Public Arbitrator
Brent D. Berkman, CPA	-	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.



Mitchell B. Goldberg, Esq.
Public Arbitrator, Presiding Chair

December 3, 2004

Signature Date

K. Steve Kimball, CFA
Public Arbitrator

Signature Date

Brent D. Berkman, CPA
Non-Public Arbitrator

Signature Date

December 17, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Mitchell B. Goldberg, Esq.	-	Public Arbitrator, Presiding Chair
K. Steve Kimball, CFA	-	Public Arbitrator
Brent D. Berkman, CPA	-	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.

Mitchell B. Goldberg, Esq.
Public Arbitrator, Presiding Chair

Signature Date

K. Steve Kimball, CFA
K. Steve Kimball, CFA
Public Arbitrator

12/2/04
Signature Date

Brent D. Berkman, CPA
Non-Public Arbitrator

Signature Date

December 17, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Mitchell B. Goldberg, Esq.	-	Public Arbitrator, Presiding Chair
K. Steve Kimball, CFA	-	Public Arbitrator
Brent D. Berkman, CPA	-	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 in which is my award.

Mitchell B. Goldberg, Esq.
Public Arbitrator, Presiding Chair

Signature Date

K. Steve Kimball, CFA
Public Arbitrator

Signature Date


Brent D. Berkman, CPA
Non-Public Arbitrator

12/16/2004
Signature Date

December 17, 2004

Date of Service (For NASD office use only)