
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 03-03685

Joseph M. Giannone, on his own behalf and as
custodian for the IRAs of Joseph Giannone, and as
custodian for Vincent Giannone and Joseph L Giannone, Jr.

Names of the Respondents

Hearing Site: Boca Raton, Florida

Scudder Investor Services, Inc.,
Christopher Paul Brisson and
Jeff Pavey

Nature of the Dispute: Customer vs. Member Firm and Associated Person.

REPRESENTATION OF PARTIES

For Joseph M. Giannone, on his own behalf and as custodian for the IRAs of Joseph Giannone, and as
custodian for Vincent Giannone and Joseph L Giannone, Jr., hereinafter referred to as "Claimant": Thomas J.
Hanrahan, Esq., Glen Rock, New Jersey.

For Respondents Scudder Investor Services, Inc. ("Scudder"), Christopher Paul Brisson ("Brisson"), and Jeff
Pavey ("Pavey"), hereinafter collectively referred to as "Respondents": Daniel O. Herrington, Esq., Armstrong
Teasdale, LLP, Kansas City, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: May 20, 2003.

Claimant signed the Uniform Submission Agreement: May 12, 2003.

Amended Statement of Claim filed on or about: July 30, 2003.

Statement of Answer filed by Respondent Scudder on or about: August 5, 2003.

Statement of Answer filed by Respondent Brisson on or about: August 19, 2003.

Statement of Answer filed by Respondent Pavey on or about: August 19, 2003.

Respondent Scudder signed the Uniform Submission Agreement: August 4, 2003.

Respondent Brisson signed the Uniform Submission Agreement: October 7, 2003.

Respondent Pavey signed the Uniform Submission Agreement: January 12, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: violation of NASD rules and Respondent Scudder's policy;
failure to execute; and misrepresentation. The causes of action relate to Respondent's failure to execute the
Scudder Technology Fund stock order in Claimant's accounts.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses

RELIEF REQUESTED

Claimant requested compensatory damages of \$110,000.00; punitive damages of \$110,000.00; costs; and attorneys' fees.

Respondents requested that Claimant take nothing from the Statement of Claim, and for such other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing, on or about February 10, 2004, Respondents made an ore tenus motion to dismiss at the conclusion of Claimant's case. The Panel denied this motion.

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

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

Claimant's claims are denied in their entirety.

Claimant's request for attorneys' fees is denied.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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(s) that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent Scudder is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00

<u>Hearing process fee</u>	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred in this matter.

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:

One (1) Pre-hearing session with the Panel @ \$1,125.00 per session	= \$1,125.00
Pre-hearing conference: November 25, 2003 1 session	

Two (2) Hearing sessions @ \$1,125.00	= \$2,250.00
<u>Hearing Date:</u> February 10, 2004 2 sessions	

Total Forum Fees	= \$3,375.00
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The Panel assessed the total forum fees of \$3,375.00 to Respondent Scudder.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Scudder is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$3,375.00</u>
Total Fees	= \$8,575.00
<u>Less payments</u>	<u>= \$2,450.00</u>
Balance Due NASD Dispute Resolution	= \$6,125.00

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

ARBITRATION PANEL

<i>Edward Aptaker, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Arthur L. Tepper, Esq.</i>	-	<i>Public Arbitrator</i>
<i>V. Michael Arias, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Edward Aptaker, Esq.
Public Arbitrator, Presiding Chairperson

02/17/04
Signature Date

/s/
Arthur L. Tepper, Esq.
Public Arbitrator

02/17/04
Signature Date

/s/
V. Michael Arias, Esq.
Non-Public Arbitrator

02/17/04
Signature Date

02/18/04
Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

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Arbitration No. 03-03685
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Public Arbitrator, Presiding Chairperson

Signature Date

Arthur L. Tepper, Esq.
Public Arbitrator

Signature Date



V. Michael Arias, Esq.
Non-Public Arbitrator

2/17/2004

Signature Date

Date of Service (For NASD Dispute Resolution office use only)