
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants
Robert Klein & Myriam Gluck,
JT Tenants

Case Number: 03-03723

Names of the Respondents
Janney Montgomery Scott, LLC and
Zvi Zim, an individual

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Robert Klein & Myriam Gluck, JT Tenants, hereinafter collectively referred to as "Claimants":
John T. Getz, Esq., Feldman & Getz, LLP, Boca Raton, Florida.

For Respondent Janney Montgomery Scott, LLC, hereinafter referred to as "JMS": Paula D.
Shaffner, Esq., Saul Ewing, LLP, Philadelphia, Pennsylvania.

Respondent Zvi Zim, an individual, hereinafter referred to as "Zim", did not appear.

CASE INFORMATION

Statement of Claim filed on or about: May 21, 2003.

Claimants signed the Uniform Submission Agreement: May 9, 2003.

Statement of Answer filed by Respondent JMS on or about: August 15, 2003.

Respondent JMS signed the Uniform Submission Agreement: September 13, 2004.

Respondent Zim did not submit a Statement of Answer or executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: violation of Section 517.301 of the Florida Statutes; common law gross negligence; negligence; violation of industry rules, regulations, customs and practices; breach of fiduciary duty; failure to supervise; misrepresentation; unsuitability; negligent hiring, retention and supervision of employees; and, respondeat superior. The causes of action relate to Claimants' investments in the following bonds and private placements: Global Star bonds; CMP Express; Tegrity; V-One; Ablesoft; Virtual Plus; Intuwave; Platinet; Click Software Tech Ltd; and, Loral Space and Comm.

Unless specifically admitted in its Answer, Respondent JMS denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$5,000,000.00, plus interest at the legal rate from the date of purchase, or reasonable market return, rescission, disgorgement of commissions and fees, costs, reasonable attorney's fees to be determined by a court of competent jurisdiction,

punitive damages and any other relief deemed just and proper.

Respondent JMS requested that the claims of Claimants be denied in all respects and that the costs of this proceeding, including attorney's fees, be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Zim did not appear at the evidentiary hearing conducted on September 21-23, 2004. Upon review of the file and the representations made by Claimants, the Panel determined that Respondent Zim 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").

Respondent Zim did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determinations of the Panel on all issues submitted.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, 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:

Respondents JMS and Zim are jointly and severally liable on the claims of misrepresentation and failure to supervise and as such, shall pay to Claimants compensatory damages in the amount of \$2,066,000.00, pre-judgment interest specifically excluded.

To the extent that the parties seek attorneys' fees, the Panel leaves that issue to be determined by a court of competent jurisdiction.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for damages pursuant to Section 517.301 of the Florida Statutes and punitive damages, are 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 = \$ 600.00

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, the member firm Janney Montgomery Scott, LLC is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation 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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: September 14, 2004	1 session
One (1) Pre-hearing session with the Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: December 8, 2003	1 session
Five (5) Hearing sessions @ \$1,200.00	= \$ 6,000.00
Hearing Dates: September 21, 2004	2 sessions
September 22, 2004	2 sessions
September 23, 2004	1 session
Total Forum Fees	= \$ 7,650.00

The Panel has assessed the total forum fees of \$7,650.00 to Respondent JMS.

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 are 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

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 600.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent JMS is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 7,650.00
<u>Total Fees</u>	= \$16,200.00
<u>Less payments</u>	= \$ 8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,650.00

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

ARBITRATION PANEL

Harold S. Stern, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert J. Saex	-	Public Arbitrator
Bruce M. Alster	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	09/24/04
<u>Harold S. Stern, Esq.</u> Public Arbitrator, Presiding Chairperson	<u>Signature Date</u>
/s/	09/24/04
<u>Robert J. Saex</u> Public Arbitrator	<u>Signature Date</u>
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09/24/04

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

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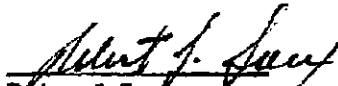
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NASD Dispute Resolution
Arbitration No. 03-03723
Award Page 4

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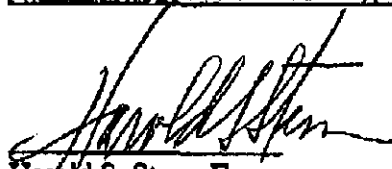
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