

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Nicholas and Anne Mastandrea; Nicholas Mastandrea, IRA; and Anne Mastandrea, IRA
(Claimants) v. David Lerner Associates, Inc. (Respondent)

Case Number: 03-04200

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member

REPRESENTATION OF PARTIES

Claimants Nicholas and Anne Mastandrea; Nicholas Mastandrea IRA; and Anne Mastandrea IRA hereinafter collectively referred to as "Claimants" appeared *pro se*.

Respondent David Lerner Associates, Inc., hereinafter referred to as "Respondent";
Joseph C. Pickard, Esq., David Lerner Associates, Inc., Syosset, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 4, 2003.
Claimants signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: August 1, 2003.
Respondent signed the Uniform Submission Agreement: August 1, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading; breach of fiduciary duty; and errors and charges. Claimants' claims included Bank of New York stock and other unspecified securities.

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

RELIEF REQUESTED

Claimants requested damages in the amount of \$15,000.00 and punitive damages in the amount of \$30,000.00.

Respondent requested that Claimants' Statement of Claim be, in all respects, dismissed and that costs and disbursements be assessed against the Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, the Arbitrator twice offered the Claimants the opportunity to suspend the proceeding to retain counsel. Each time, they chose to continue. At the end of the proceeding, they affirmed that they were able to present all of their evidence.

AWARD

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

1. Respondent is liable for and shall pay to the Claimants compensatory damages in the amount of \$3,692.11.
2. Respondent is liable for and shall pay to Claimants the sum of \$175.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. 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	= \$175.00
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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. Accordingly, David Lerner Associates, Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: November 19, 2003 1 session

Two (2) Hearing sessions @ \$450.00 with the Arbitrator @ \$450.00 = \$ 900.00
Hearing Date: January 16, 2004 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed forum fees totaling \$1,350.00 against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 625.00
<u>Refund Due to Claimants</u>	= \$ 450.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimants for the \$175.00 filing fee.

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$2,625.00
<u>Forum Fees</u>	= \$1,350.00
<u>Total Fees</u>	= \$3,975.00
<u>Less payments</u>	= \$2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,350.00

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

ARBITRATOR

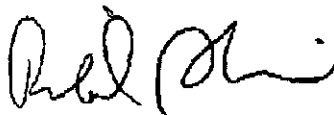
Richard Slavin, Esq.

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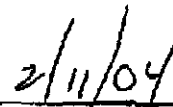
Public Arbitrator, Presiding Chair

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, which is my award.



Richard Slavin, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

February 12, 2004

Date of Service (For NASD Dispute Resolution use only)