
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

H. Werner Krause Rollover, IRA

Case Number: 03-04260

Names of the Respondents

K.W. Brown Investments, Inc.

Kenneth Brown

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For H. Werner Krause Rollover, IRA, hereinafter referred to as "Claimant": John T. Getz, Esq., Feldman & Getz, LLP, Boca Raton, Florida.

For K.W. Brown Investments, Inc. ("KW Brown") and Kenneth Brown ("Ken Brown"), hereinafter collectively referred to as "Respondents": Stephen A. Mendelsohn, Esq., Greenberg Traurig, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2003.

Claimant signed the Uniform Submission Agreement: June 3, 2003.

Statement of Answer filed by Respondents on or about: August 13, 2003.

Amended Answer of Respondents filed on or about: August 18, 2003.

Respondent KW Brown signed the Uniform Submission Agreement on or about: August 22, 2003.

Respondent Ken Brown signed the Uniform Submission Agreement on or about September 2, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violation of Section 517.301 of the Florida Statutes; breach of contract; common law gross negligence or, in the alternative ordinary negligence; violation of industry rules, regulations, customs and practices of the securities industry; breach of fiduciary duty; misrepresentation and/or omissions of pertinent information; unsuitability; negligence; negligent supervision, hiring and retention of employees; and, respondeat superior. The causes of action relate to the purchase and sale of shares of Palm, Inc., EP Medsystems, Inc., Transkaryotic Therapies, Inc., RF Micro Devices, Inc., Electronics Arts, Electronics Boutique Holdings, and AIM mutual and equity funds in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages in an amount no less than \$300,000.00, plus interest at the legal rate from the date of purchase or reasonable market return, rescission under Florida Statute Section 517.211, disgorgement of all commissions and fees paid to Respondents, all costs and expenses associated with this proceeding, full reimbursement of all filing and forum fees, reasonable attorney's fees in an amount to be determined by a court of competent jurisdiction, punitive damages, and all other relief that the Panel deemed just and proper.

Respondents requested that Claimant's claims be dismissed. In addition, Respondents asserted that they reserved the right to seek attorney's fees from a court of competent jurisdiction.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 22, 2004, Claimant notified NASD Dispute Resolution that this matter had settled. Thereafter, on November 30, 2004, NASD Dispute Resolution closed the file in this matter.

On or about February 2, 2005, the parties filed a stipulated motion asserting that all claims had been dismissed, requesting that this matter be re-opened and that the Panel enter a Stipulated Award expunging any reference to this matter from Respondent Ken Brown's registration records maintained by the NASD Central Registration Depository ("CRD").

Prior to the settlement of this matter, one public arbitrator had withdrawn from the Panel. Subsequent to the closure of the file, the other public arbitrator passed away. On or about February 3, 2005, the parties advised NASD Dispute Resolution that the sole remaining arbitrator could rule on the motion to re-open this matter and enter the Stipulated Award on his own. As a result, the Stipulated Award in this matter will be executed by the non-public arbitrator only.

AWARD

After considering the pleadings, the Stipulated Motion to Re-open Matter and Request for Expungement and the record in this matter, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

All claims are dismissed.

The Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondent Brown's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Ken Brown must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

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

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 K. W. Brown Investments, Inc. is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 13-15, 2004 adjournment requested by Claimant = \$1,125.00

November 29- December 2, 2004 joint mediation adjournment = \$1,125.00

No adjournment fee assessed for the November 29-December 2, 2004 hearing dates pursuant to Rule 10403 of the Code.

The Panel has assessed \$1,125.00 of the adjournment fees to Claimant.

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 Arbitrator 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	= \$1,125.00
Pre-hearing conference: December 3, 2003 1 session	
<hr/>	
Total Forum Fees	= \$1,125.00

The Arbitrator has assessed \$562.50 of the forum fees to Claimant.

The Arbitrator has assessed \$562.50 of the forum fees jointly and severally to Respondents.

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

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$1,125.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$1,987.50
<u>Less payments</u>	<u>= \$1,987.50</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent KW Brown is solely liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

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

ARBITRATOR

John Uustal

-

Non-Public Arbitrator

Arbitrator's Signature

/s/

03/04/2005

John Uustal
Non-Public Arbitrator

Signature Date

03/04/2005

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

MAR. 3. 2005 10:02AM NASD

NO.

NASD Dispute Resolution
Arbitration No. 03-04260
Stipulated Award Page 5

ARBITRATOR

John Uustal

Non-Public Arbitrator

Arbitrator's Signature



John Uustal
Non-Public Arbitrator



Signature Date

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