

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Reza and Saba Mokhtari, Claimants v. Capstone Investments and Ryan M. Gainor,
Respondents

Case Number: 03-04453

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimants:

William F. Davis, Esq.
Law Offices of William F. Davis
Los Angeles, California

For Respondents:

Scott L. Dahle, Esq.
Capstone Investments
Palos Verdes Estates, California

CASE INFORMATION

Statement of Claim filed: June 17, 2003

Claimants' Joint Uniform Submission Agreement signed: May 18, 2003

Joint Statement of Answer filed by Respondents: August 29, 2003

Respondent Capstone Investment's Uniform Submission Agreement signed:
September 15, 2003

Respondent Ryan M. Gainor's Uniform Submission Agreement signed:
September 17, 2003

CASE SUMMARY

Claimants alleged breach of contract, breach of fiduciary duty, unsuitability, unauthorized trading, fraud, negligence, and failure to supervise. Claimants' allegations involved three allegedly unauthorized option trades in NASD 100 index options (QQQ).

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and set forth various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$86,369.25 in compensatory damages, excess commissions in an amount according to proof, unspecified punitive damages, interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On July 2, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On August 29, 2003, Respondents' counsel signed a Waiver Agreement on Respondents' behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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

- 1) Respondents Capstone Investments and Ryan M. Gainor are jointly and severally liable to and shall pay Claimants Reza and Saba Mokhtari the sum of \$86,369.25 in compensatory damages.
- 2) Respondents Capstone Investments and Ryan M. Gainor are jointly and severally liable to and shall pay Claimants Reza and Saba Mokhtari \$17,273.85 in interest.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

| | |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 225.00 |
|--------------------------|-------------|

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Capstone Investments is a party and the following fees are assessed:

| | |
|--------------------------|---------------------|
| Member Surcharge | = \$1,100.00 |
| Pre-Hearing Process Fee | = \$ 750.00 |
| Hearing Process Fee | = \$1,700.00 |
| Total Member Fees | = \$3,550.00 |

Adjournment Fees

The following adjournment fees are assessed:

| | |
|---|-------------|
| Adjournment of August 18-19, 2004 hearing dates requested by the parties | = \$ 750.00 |
|---|-------------|

The Panel waived the adjournment fee.

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference, that lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|--|-----------------------------|
| Three (3) Pre-hearing conference sessions with the Panel @ \$750.00/session | = \$2,250.00 |
| Pre-hearing conferences: | |
| October 15, 2003 | 1 session |
| January 7, 2005 | 1 session |
| June 5, 2006 | 1 session |
| One (1) Hearing session @ \$750.00/session | = \$ 750.00 |
| Hearing: | September 6, 2006 1 session |
| Total Forum Fees | = \$3,000.00 |

The Panel assessed the entire balance of the forum fees, in the amount of \$3,000.00, to Respondents Capstone Investments and Ryan M. Gainor, jointly and severally.

Fee Summary

1. Claimants Reza and Saba Mokhtari are jointly and severally charged with the following fees and costs:

| | |
|--|----------------------|
| Initial Filing Fee | = \$ 225.00 |
| Less payments | = \$ (975.00) |
| Refund Due from NASD Dispute Resolution | = \$ (750.00) |

2. Respondent Capstone Investments is charged with the following fees and costs:

| | |
|--|------------------|
| Member Fees | = \$ 3,550.00 |
| Less payments | = \$(3,550.00) |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

3. Respondents Capstone Investments and Ryan M. Gainor are charged jointly and severally with the following fees and costs:

| | |
|--|----------------------|
| Forum Fees | = \$ 3,000.00 |
| Balance Due NASD Dispute Resolution | = \$ 3,000.00 |

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

ARBITRATION PANEL

James P. Murphy
Anthony L. Andreoli
Michael W. Burnett, CFA

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


James P. Murphy
Chair, Public Arbitrator

2-8-06
Signature Date

Anthony L. Andreoli
Public Arbitrator

Signature Date

Michael W. Burnett, CFA
Non-Public Arbitrator

Signature Date

9/8/06
Date of Service

NASD Dispute Resolution
Arbitration No. 03-04453
Award Page 5 of 5

ARBITRATION PANEL

James P. Murphy
Anthony L. Andreoli
Michael W. Burnett, CFA

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

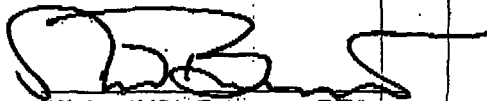
Concurring Arbitrators' Signatures

James P. Murphy
Chair, Public Arbitrator

Signature Date

Anthony L. Andreoli
Public Arbitrator

Signature Date



Michael W. Burnett, CFA
Non-Public Arbitrator

09/09/2006
Signature Date

9/8/06
Date of Service

ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------|
| James P. Murphy | - | Public Arbitrator, Presiding Chair |
| Anthony L. Andreoli | - | Public Arbitrator |
| Michael W. Burnett, CFA | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

James P. Murphy
Chair, Public Arbitrator

Signature Date



Anthony L. Andreoli
Public Arbitrator

10/4/06

Signature Date

Michael W. Burnett, CFA
Non-Public Arbitrator

Signature Date

Date of Service