

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Larry S. Schwartz (Claimant) v. Nathan & Lewis Securities, Inc., Walnut Street Securities, Inc., MetLife Securities, Inc., Robert N. Martz, Roger Pacheco II, and Alexander Brackman (Respondents)

Case Number: 03-05478

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Members and Associated Persons

REPRESENTATION OF PARTIES

Claimant Larry S. Schwartz ("Schwartz") hereinafter referred to as "Claimant": J. Anklowitz Esq., Law Offices of J. Anklowitz, Bohemia, NY.

Respondents Nathan & Lewis Securities, Inc., n/k/a Walnut Securities, Inc. ("Nathan"), Walnut Street Securities, Inc., ("Walnut"), MetLife Securities, Inc., ("MetLife"), Robert N. Martz, ("Martz"), Roger Pacheco II, ("Pacheco"), and Alexander Brackman ("Brackman") hereinafter collectively referred to as "Respondents": Joseph C. O'Keefe, Esq., Proskauer Rose, LLP, Newark, NJ.

CASE INFORMATION

Statement of Claim filed on or about: July 24, 2003.

Claimant signed the Uniform Submission Agreement: July 19, 2003.

Joint Statement of Answer filed by Respondent Walnut, MetLife, Martz, Pacheco and Brackman on or about: November 7, 2003.

Respondent Walnut signed the Uniform Submission Agreement: October 30, 2003.

Respondent MetLife signed the Uniform Submission Agreement: October 30, 2003.

Respondent Martz signed the Uniform Submission Agreement: August 18, 2003.

Respondent Pacheco signed the Uniform Submission Agreement: August 22, 2003.

Respondent Brackman signed the Uniform Submission Agreement: August 18, 2003.

Respondent Nathan did not file a Statement of Answer or submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, commissions, compensation wrongful termination, discrimination and bankruptcy.

Unless specifically admitted in their Answer, Respondents Walnut, MetLife, Martz, Pacheco, and Brackman denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$259,581.38, punitive damages, interest, attorneys' fees, costs, and such other and further relief the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Nathan did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, is bound by the determination of the Panel on all issues submitted.

On or about September 11, 2003, Respondent Nathan Lewis Securities, Inc., merged with Respondent Walnut Securities, Inc.

On or about September 14, 2004, Arbitrators Eric J. Sussman, Malcolm H. Bloch, and James S. Hazard recused themselves from the original Panel due to irreconcilable differences. A new panel was constituted and the replacement arbitrators are Dorothy G. Gray, Joseph J. Arata, and Gregory D. Fitzpatrick.

A telephonic pre-hearing conference was held on April 1, 2005 to address Respondents' Cross-Motion to Dismiss. After due deliberation the Panel decided to reserve their decision. On or about June 10, 2005, the Panel decided to deny said Motion.

At the hearing in this matter, Claimant moved to dismiss claims against Respondent Brackman, without opposition by Respondents. After due consideration, that Panel granted the motion with prejudice.

At the hearing, Claimant filed a Motion for Recusal. The Panel denied the Motion. Claimant stated that he did not have a full and fair opportunity to be heard in the hearing because of the Panel's ruling that it refused to hear testimony from Claimant regarding expenses based upon Claimant's responses to related discovery documents and information requests as ordered by the Chairperson.

The parties have 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, 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:

1. Claimant's claims are denied in their entirety.
2. 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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Walnut is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, MetLife is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

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: March 22, 2005 1 session	

Four (4) Pre-hearing sessions with Panel @ \$1,125.00	= \$ 4,500.00
Pre-hearing conferences: March 26, 2004 1 session	
August 11, 2004 1 session	
December 3, 2004 1 session	
April 1, 2005 1 session	

Four (4) Hearing sessions @ \$1,125.00 = \$ 4,500.00

Hearing Dates: July 12, 2005 2 sessions
July 13, 2005 2 sessions

Total Forum Fees = \$ 9,450.00

1. The Panel has assessed \$ 4,725.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 4,725.00 of the forum fees jointly and severally to Respondents Walnut and MetLife.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,725.00
Total Fees	= \$ 5,025.00
Less payments	= \$ 2,125.00
Balance Due NASD Dispute Resolution	= \$ 2,900.00

2. Respondent Walnut is solely liable for:

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

3. Respondent MetLife is solely liable for:

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

4. Respondents Walnut and MetLife are jointly and severally liable for:

Forum Fees	= \$ 4,725.00
Total Fees	= \$ 4,725.00
Less payments	= \$ 2,750.00
Balance Due NASD Dispute Resolution	= \$ 1,975.00

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

ARBITRATION PANEL

Joseph J. Arata	-	Public Arbitrator, Presiding Chairperson
Dorothy F. Gray	-	Public Arbitrator
Gregory D. Fitzpatrick	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.



Joseph J. Arata
Public Arbitrator, Presiding Chairperson

7-25-05

Signature Date

Dorothy F. Gray
Public Arbitrator

Signature Date

Gregory D. Fitzpatrick
Non-Public Arbitrator

Signature Date

July 26, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

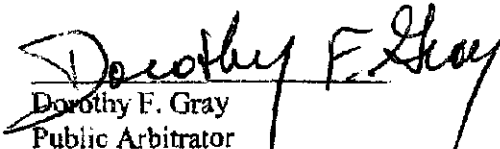
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Public Arbitrator, Presiding Chairperson

Signature Date



Dorothy F. Gray
Public Arbitrator

7/21/05

Signature Date

Gregory D. Fitzpatrick
Non-Public Arbitrator

Signature Date

July 26, 2005

Date of Service (For NASD Dispute Resolution use only)

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Gregory D. Fitzpatrick
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