

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
BNY Capital Markets, Inc.

Case Number: 03-05887

Name of the Respondents
CSG Investments, Inc.;
Beal Bank; and,
Beal Capital Markets, Inc.

Hearing Site: Dallas, Texas

NATURE OF DISPUTE

Member Firm v. Non-Members with Contract to Arbitrate and Non-Member without Contract to Arbitrate

REPRESENTATION OF PARTIES

Claimant BNY Capital Markets, Inc., hereinafter referred to as "Claimant": C.W. Flynn, Esq., of the firm of Locke Liddell & Sapp LLP, located in Dallas, Texas.

Respondents CSG Investments, Inc. ("CSG"), Beal Bank and Beal Capital Markets, Inc. ("Beal Capital"), hereinafter collectively referred to as "Respondents": David Dyer, Esq., of the firm of Secore & Waller, L.L.P., located in Dallas, Texas.

CASE INFORMATION

Statement of Claim filed: August 13, 2003.

Claimant signed the Uniform Submission Agreement: August 12, 2003.

Amended Statement of Claim filed: August 23, 2004.

Statement of Answer filed by Respondents CSG and Beal Bank on: October 23, 2003.

Respondent CSG signed the Uniform Submission Agreement: September 16, 2003.

Respondent Beal Bank signed the Uniform Submission Agreement: September 16, 2003.

Amended Statement of Answer filed by Respondent CSG, Beal Bank and Beal Capital on: September 2, 2004.

Respondent Beal Capital did not file an executed Uniform Submission Agreement.

Claimant's Pre-Hearing Brief filed: September 17, 2004.

Respondents' Pre-Hearing Brief filed: September 17, 2004.

Claimant's Response to Respondents' Pre-Hearing Brief filed: December 23, 2004.

Respondents' Reply Brief filed on: December 23, 2004.

CASE SUMMARY

Claimant asserted breach of contract and negligent misrepresentation as causes of action. The causes of action related to Respondents' purchase from Claimant of \$15,000,000 Pacific Gas and Electric Company bonds. After Respondents placed the order and Claimant confirmed the order twice, Claimant purchased the bonds. Respondents later attempted to cancel the trade and refused to pay for the bonds.

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

1. CSG has no liability as an agent acting for a disclosed principal, Beal Capital;
2. Beal bank has no liability because it lacks any relationship with Claimant;
3. Respondents are not liable for the unauthorized trade order because:
 - a. The trade order was placed by an employee without real authority to place the order, either actual, expressed or implied; and,
 - b. The trade order was solicited by fraud, recklessness, negligence or mutual mistake;
4. Claimant failed to mitigate its losses;
5. Claimant elected its remedy by holding, rather than selling the bonds;
6. Claimant waived and is estopped from asserting this claim against Respondents;
7. Claimant's claims are barred by ratification and acquiescence;
8. Claimant's claims are barred by its own breach of contract;
9. Respondents were not the proximate cause of Claimant's alleged losses;
10. Claimant was contributory negligent;
11. Any right of recovery is limited by the doctrine of comparative responsibility; and
12. Claimant's alleged losses were not foreseeable.

RELIEF REQUESTED

Claimant BNY Capital Markets, Inc. requested:

Compensatory Damages	\$2,250,000.00
Interest	Unspecified Amount
Attorneys' Fees	Unspecified Amount
Other Costs	Unspecified Amount
Other Monetary/Non-Monetary Relief if any:	Unspecified Amount

Respondents CSG Investments, Inc., Beal Bank and Beal Capital Markets, Inc. requested that the Panel deny all of the claims and causes of action asserted by Claimant, order the Claimant to take nothing, and that all costs and fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Beal Capital did not file with NASD Dispute Resolution, a properly executed submission to arbitration but voluntarily agreed to submit to arbitration and, having answered the

claim, appeared and provide testimony at the hearing, is bound by the determination of the Panel on all issues submitted.

At the Initial Pre-Hearing Conference on April 7, 2004, the Claimant made an oral Motion to Amend to add Beal Capital as a party Respondent. Respondents CSG and Beal Bank had no objection and the Panel granted the Motion.

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

1. Respondents CSG Investments, Inc. and Beal Capital Markets, Inc. are jointly and severally liable for and shall pay to the Claimant, BNY Capital Markets, Inc., the sum of \$1,098,677.00 as compensatory damages;
2. The claims against Respondent Beal Bank are dismissed with prejudice
3. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those sums specifically enumerated in this decision; and,
4. Any and all relief not specifically addressed herein 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	= \$ 2,000.00
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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, BNY Capital Markets, Inc. is a party and the following member fees are assessed:

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:

October 12-16, 2004 adjournment by Claimant = \$ 1,200.00
(Waived by Panel)

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$ 900.00
Pre-hearing conferences: May 12, 2004 1 session
May 18, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00
Pre-hearing conferences: April 7, 2004 1 session
September 27, 2004 1 session

Eleven (11) Hearing sessions @ \$1,200.00 = \$13,200.00
Hearing Dates: January 10, 2005 2 sessions
January 11, 2005 2 sessions
January 12, 2005 2 sessions
January 13, 2005 3 sessions
January 14, 2005 2 sessions

Total Forum Fees = \$16,500.00

The Panel has assessed \$8,250.00 of the forum fees to Claimant BNY Capital Markets, Inc., and has assessed \$8,250.00 of the forum fees, jointly and severally, to Respondents CSG Investments, Inc. and Beal Capital Markets, Inc.

EEE SUMMARY

Claimant BNY Capital Markets, Inc. is solely liable for:

Initial Filing Fee	= \$ 2,000.00
Member Fees	= \$ 8,550.00
Forum Fees	= \$ 8,250.00
Total Fees	= \$18,800.00
Less payments	= \$11,750.00
Balance Due NASD Dispute Resolution	= \$ 7,050.00

Respondents CSG Investments, Inc. and Beal Capital Markets, Inc. are jointly and severally liable for:

Forum Fees	= \$ 8,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,250.00

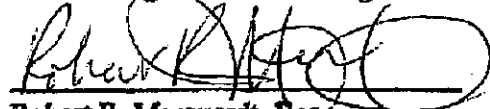
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Robert R. Marquardt, Esq. - Public Arbitrator, Presiding Chairperson
William L. Dorcy - Public Arbitrator
Raymond E. Jennison - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert R. Marquardt, Esq.
Public Arbitrator, Presiding Chairperson

1-26-05
Signature Date

William L. Dorcy
Public Arbitrator

Signature Date

Raymond E. Jennison
Non-Public Arbitrator

Signature Date

1/27/05 R/M
Date of Service (For NASD Dispute Resolution office use only)

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