

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert Feldsted, Claimant v. LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin,
and Charles P. Celestin, Respondents

Case Number: 03-05979

Hearing Site: Seattle, Washington

Nature of the Dispute: Customer v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Chris R. Youtz, Esq.
Sirianni Youtz Meier & Spoonemore
Seattle, Washington

For Respondents LH Ross & Company, Inc.
and Franklyn R. Michelin:

Gary Goodenow, Esq.
LH Ross & Company, Inc.
Boca Raton, Florida

For Respondent Kristian F. Sierp:

In Propria Persona

For Respondent Charles P. Celestin:

In Propria Persona

CASE INFORMATION

Statement of Claim filed: August 18, 2003

Claimant's Uniform Submission Agreement signed: August 15, 2003

Joint Statement of Answer filed by Respondents LH Ross & Company, Inc. and Franklyn R.
Michelin: October 27, 2003

Statement of Answer filed by Respondent Kristian F. Sierp: November 20, 2003

Respondent LH Ross & Company, Inc.'s Uniform Submission Agreement signed: undated

Respondent Franklyn R. Michelin's Uniform Submission Agreement signed: undated

CASE SUMMARY

Claimant alleged unauthorized transactions, unsuitability, violations of the Securities Act of Washington, failure to supervise, control person liability, breach of contract, breach of fiduciary duty, and violations of the Consumer Protection Act, involving private stock in LH Ross & Co., Inc.

Respondents LH Ross & Company, Inc. and Franklyn R. Michelin denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim. Respondent Kristian F. Sierp adopted the Answer and affirmative defenses submitted by Respondents LH Ross & Company, Inc. and Franklyn R. Michelin.

RELIEF REQUESTED

Claimant requested \$42,000.00 in compensatory damages, \$10,000.00 in treble damages as provided by the Washington Consumer Protection Act, unspecified additional punitive damages, pre-judgment interest at the legal rate, and attorney's fees pursuant to the Washington Securities Act, the Washington Consumer Protection Act, and otherwise.

Respondents LH Ross & Company, Inc. and Franklyn R. Michelin, and by adoption, Respondent Kristian F. Sierp, requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned Panel determined that Respondents LH Ross & Company, Inc., Franklyn R. Michelin, and Charles P. Celestin were properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Kristian F. Sierp did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code, and having answered the claim and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondent Charles P. Celestin did not file with NASD Dispute Resolution a properly executed 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 September 13, 2004, Respondents LH Ross & Company, Inc. and Franklyn R. Michelin brought a motion for abatement of this proceeding owing to a cease and desist order entered by hearing officers at the request of NASD Enforcement on August 30, 2004. On September 16, 2004, Claimant filed an opposition to this motion. After due consideration, the Panel issued an Order on September 18, 2004 denying Respondents' Motion for Abatement.

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 LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin are jointly and severally liable to and shall pay Claimant the sum of \$42,000.00 in compensatory damages.
- 2) Respondents LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin are jointly and severally liable to and shall pay Claimant interest at the rate of 8% per annum on \$42,000.00 from February 13, 2003 to September 20, 2004.
- 3) Respondents LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin are jointly and severally liable to and shall pay Claimant the sum of \$16,584.82 in attorney's fees pursuant to the Revised Code of Washington ("RCW") section 21.20.430(2).
- 4) Respondents LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin are jointly and severally liable to and shall pay Claimant the sum of \$10,000.00 in treble damages in accordance with RCW section 19.86.090.
- 5) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 6) 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
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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 LH Ross & Company, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: January 23, 2004 1 session	
1 Hearing session @ \$750.00/session	= \$ 750.00
Hearing: September 20, 2004 1 session	

Total Forum Fees	= \$ 1,500.00
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The Panel assessed \$ 1,500.00 of the forum fees jointly and severally to Respondents LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Less payments</u>	= \$(975.00)
Refund Due Claimant	= \$(750.00)

2. Respondent LH Ross & Company, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,550.00
<u>Less payments</u>	= \$(3,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents LH Ross & Company, Inc., Kristian F. Sierp, Franklyn R. Michelin, and Charles P. Celestin are charged jointly and severally with the following fees and costs:

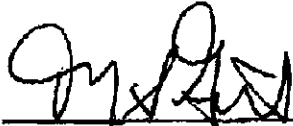
Forum Fees	= \$ 1,500.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

Daniel S. Gottlieb, Esq.	-	Public Arbitrator, Presiding Chair
Fredrick Davis Huebner, Esq.	-	Public Arbitrator
William J. Rex	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:



Daniel S. Gottlieb, Esq.
Chair, Public Arbitrator

10/1/04
Signature Date

Fredrick Davis Huebner, Esq.
Public Arbitrator

Signature Date

William J. Rex
Non-Public Arbitrator

Signature Date

10-1-04
Date of Service

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