
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Alva L. Barry as Trustee of
the Alva Barry Revocable Living Trust

Case Number: 03-06297

Names of the Respondents
Sands Bros. & Co., Ltd.
Ralph Johnson
Chris Braccia
Jason Russo

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Alva L. Barry as Trustee of the Alva Barry Revocable Living Trust, hereinafter referred to as "Claimant": Meah R. Tell, Esq., Fort Lauderdale, Florida.

For Sands Bros. & Co., Ltd. (Sands), Ralph Johnson (Johnson), Chris Braccia (Braccia), and Jason Russo (Russo), hereinafter collectively referred to as the "Respondents": David M. Kasell, Esq., The Roth Law Firm, P.L.L.C., New York, New York.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: August 22, 2003.

Respondents Sands, Johnson, Braccia and Russo did not file a Statement of Answer or executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violations of federal securities law and Florida Statutes Chapter 517; common law fraud; breach of fiduciary duty; violations of Rules 2310 and 3010 of NASD Rules of Fair Practice; misrepresentations; material omissions; unsuitability; gross negligence; negligent concealment; and fraudulent negligent inducement. The causes of action relate to the purchase and sale of shares including Eaton Vance Income Fund of Boston, Credit Suisse High Yield Fund, and Prospect Street High Income Fund in Claimant's account.

Unless specifically admitted in their Answer, the Respondents denied all of the material allegations made in the Statement of Claim and asserted, among other things, the following defenses: failure to state a claim, failure to mitigate damages, waiver, ratification, and estoppel.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$26,000, punitive damages in an amount to be determined by the undersigned arbitrators (the "Panel"), pre and post-award interest, expert witness fees, attorneys' fees, and costs, including costs of the arbitration.

Respondents requested dismissal of the statement of claim in its entirety and entry of an award recommending expungement of all references to the above-referenced arbitration from Respondents Sands, Braccia, Johnson, and Russo's NASD Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 8, 2004, the parties notified NASD Dispute Resolution that a settlement had been reached and thereafter submitted a proposed Stipulated Award. As part of the settlement, it was agreed that all references to the above-referenced arbitration would be expunged from Respondents Sands, Johnson, and Braccia, and Russo's NASD CRD records.

The parties in this matter have agreed that the Stipulated Award may be entered in counterpart copies, or that a signed, handwritten Stipulated Award may be entered.

AWARD

After considering the parties' submissions and representations, but without making findings of fact or conclusions of law, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All of Claimant's claims against Respondents, and any other claims that have been or could be asserted by or on behalf of the Claimant against Respondents, are dismissed, with prejudice.

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

Any relief not specifically addressed herein, including Claimant's request for punitive damages, is denied, with prejudice.

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 = \$ 150.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Sands is a member firm and a party.

Member surcharge	= \$ 600.00
<u>Pre-hearing process fee</u>	<u>= \$ 750.00</u>
Total Member Fees	= \$ 1,350.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

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 assessed during these proceedings.

Forum Fees and Assessments

The Panel 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 hours or less.

No forum fees were assessed during these proceedings.

Administrative Costs

Administrative costs are 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 during this proceeding.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 150.00
Total Fees	= \$ 150.00
<u>Less Payments</u>	<u>= \$ 150.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Sands is solely liable for:

<u>Member Fees</u>	= \$ 1,350.00
<u>Total Fees</u>	= \$ 1,350.00
<u>Less Payments</u>	= \$ 1,350.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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

ARBITRATION PANEL

John A. Brekka, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Jeffrey Scott Grubman, J.D.	-	Public Arbitrator
Melanie Cherdack, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson

August 10, 2004
Signature Date

/s/
Jeffrey Scott Grubman, J.D.
Public Arbitrator

August 5, 2004
Signature Date

/s/
Melanie Cherdack, Esq.
Non-Public Arbitrator

July 23, 2004
Signature Date

August 9, 2004
Date of Service (For NASD Dispute Resolution office use only)

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Respondent Sands is solely liable for:


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Melanie Cherdack, Esq.	- Non-Public Arbitrator

Concurring Arbitrators' Signatures



John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson

8/11/17

Signature Date



Jeffrey Scott Grubman, J.D.
Public Arbitrator

Signature Date

Melanie Cherdack, Esq.
Non-Public Arbitrator

Signature Date

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John A. Brekka, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Jeffrey Scott Grubman, J.D.
Public Arbitrator

8/5/04

Signature Date

Melanie Cherdack, Esq.
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Jeffrey Scott Grubman, J.D.
Public Arbitrator

Signature Date

Melanie Cherdack
Melanie Cherdack, Esq.
Non-Public Arbitrator

7-23-04
Signature Date

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