

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Adolph Tieppo

and

Case Number: 04-00525  
Hearing Site: Southfield, Michigan

Names of Respondents

Michigan Securities, Inc., and  
William E. Rice, Jr.

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**NATURE OF DISPUTE**

Associated Person v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Adolph Tieppo ("Claimant") was represented by John A. Hubbard, Esq., and Anthony R. Paesano, Esq., Beals Hubbard, P.L.C., Farmington Hills, Michigan.

Michigan Securities, Inc. ("MSI") and William E. Rice, Jr. ("Rice"), hereinafter referred to as "Respondents," were represented by Michael P. Marsalese, Esq., The Marsalese Law Group, PLC, Southfield, Michigan.

**CASE INFORMATION**

The Verified Statement of Claim was filed on or about January 27, 2004. The Submission Agreement of Claimant Adolph Tieppo was signed on or about January 16, 2004.

The Verified Answer to Claimant's Verified Statement of Claim was filed jointly by Respondents on or about March 18, 2004. Respondents' Verified Counterclaim was filed on or about March 18, 2004. The Submission Agreement of Respondent Michigan Securities, Inc. was signed on or about March 18, 2004, by Sandra Rayba, President. The Submission Agreement of Respondent William E. Rice, Jr. was signed on or about March 19, 2004.

Claimant filed an Answer to Counterclaim on or about May 7, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; tortious interference with Claimant's business relationships with his customers; business defamation; defamation; violations of MCLA 600.2961; unjust enrichment; and unlawful conspiracy. The causes of action related to Claimant's allegations that Respondent failed to pay deferred compensation and made false and disparaging statements to Claimant's customers.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Verified Statement of claim fails to state a claim upon which relief can be granted; the Verified Statement of claim is barred by the doctrines of assumption of risk, estoppel, laches, unclean hands, and waiver; and Claimant's claims are barred by failing to mitigate damages, if any.

Respondents filed a counterclaim asserting causes of action including the following: breach of contract; negligent misrepresentation; malpractice and common law fraud. The causes of action related to Respondents' allegations that Claimant made unauthorized trades in two client accounts.

Unless specifically admitted in his Answer, Claimant denied the allegations made in the counterclaim and asserted various affirmative defenses.

#### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$175,000.00 in compensatory damages, plus exemplary and/or punitive damages, interest, costs, attorneys fees, and such other and further relief as the panel deemed appropriate.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. In their counterclaim, Respondents requested out-of-pocket losses of \$38,879.23, plus punitive/exemplary damages, interest, costs, and attorneys' fees.

#### **OTHER ISSUES CONSIDERED & DECIDED**

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

#### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all are denied and dismissed with prejudice;
- 2.) The counterclaim filed by Michigan Securities, Inc., and William Rice is denied and dismissed with prejudice;

- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **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
Counterclaim claim filing fee	= \$ 1,000.00

#### **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. In this matter, the member firm is Michigan Securities, Inc.

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

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$450.00	= \$ 900.00
Pre-hearing conferences: November 15, 2004	1 session
January 10, 2005	1 session
Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: July 12, 2004	1 session
December 7, 2004	1 session
Four (4) Hearing sessions x \$1,125.00	= \$ 4,500.00
Hearing Dates: January 11, 2005	2 sessions
January 12, 2005	2 sessions
Total Forum Fees	= \$ 7,650.00

The Arbitration Panel has assessed \$3,825.00 of the forum fees to Adolph Tieppo.

The Arbitration Panel has assessed \$3,825.00 of the forum fees jointly and severally to Michigan Securities, Inc., and William E. Rice, Jr.

**Fee Summary**

Claimant, Adolph Tieppo, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,825.00
Total Fees	= \$ 4,125.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,700.00

Respondent, Michigan Securities, Inc., is liable for:

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

Respondents, Michigan Securities, Inc., and William E. Rice, Jr., are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Forum Fees	= \$ 3,825.00
Total Fees	= \$ 4,825.00
Less payments	= \$ 1,600.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

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

**ARBITRATION PANEL**

Jeffry M. Bauer, Esq. - Public Arbitrator, Presiding Chair  
Stewart C.W. Weiner, Esq. - Public Arbitrator  
Bernard R. Cohen, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Jeffry M. Bauer, Esq.  
Jeffry M. Bauer, Esq.  
Public Arbitrator, Presiding Chair

01/13/05  
Signature Date

/s/ Stewart C. W. Weiner, Esq.  
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Public Arbitrator

01/13/05  
Signature Date

/s/ Bernanrd R. Cohen, Esq.  
Bernard R. Cohen, Esq.  
Non-Public Arbitrator

01/13/05  
Signature Date

01/13/05  
Date of Service (For NASD office use only)

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