

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Catherine A. Minardo Trust, Catherine A. Minardo, Trustee, Thomas Minardo, and Catherine Minardo (Claimants) v. McDonald Investments, Inc. and Thomas Jewett (Respondents)

Case Number: 04-01008

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimants Catherine A. Minardo Trust, Catherine A. Minardo, Trustee ("Minardo Trust"), Thomas Minardo ("T. Minardo"), and Catherine Minardo ("C. Minardo") hereinafter collectively referred to as "Claimants": John S. Chapman, Esq., John S. Chapman, Esq., Ltd., Cleveland, OH.

Respondents McDonald Investments, Inc. ("McDonald") and Thomas Jewett ("Jewett") hereinafter collectively referred to as "Respondents": Steven R. Malynn, Esq., and Karen Giffen, Esq., Giffen & Kaminski, LLC, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 2004.

Claimant Minardo Trust signed the Uniform Submission Agreement: March 5, 2004.

Claimants T. Minardo and C. Minardo signed the Uniform Submission Agreement: November 18, 2003.

Joint Statement of Answer filed by Respondents on or about: May 10, 2004.

Respondent Jewett signed the Uniform Submission Agreement: April 15, 2004.

Respondent McDonald signed the Uniform Submission Agreement: March 24, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; negligence; negligent supervision; breach of fiduciary duty; and constructive fraud. The causes of action relate to various common stocks and mutual funds.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$250,000.00; all profits generated; consequential damages; lost opportunity costs; costs; exemplary damages in the amount of \$500,000.00; and such other and further relief as the Arbitrators may determined to be reasonable and just under the circumstances.

Respondents prayed from judgment on the Statement of Claim, an award of all costs, expenses and attorneys' fees; and an order of expungement complying with the requirements of NASD Rule 2130.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, and 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. Claimants' claims are dismissed in their entirety.
2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$375.00 to reimburse Claimants for the non-refundable filing fee previously paid to NASD Dispute Resolution.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Thomas Jewett's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Thomas Jewett must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. 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 = \$375.00

As stated in the "Award" section above, the Panel has determined to assess the \$375.00 non-refundable filing fee jointly and severally against Respondents.

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, McDonald Investments, Inc. is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

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 Panel @ \$1,200.00 = \$1,200.00
Pre-hearing conference: September 27, 2004 1 session

Eight (8) Hearing sessions @ \$1,200.00 = \$9,600.00
Hearing Dates: February 23, 2005 2 sessions
February 24, 2005 2 sessions
February 25, 2005 2 sessions
March 14, 2005 2 sessions

Total Forum Fees = \$10,800.00

1. The Panel has assessed \$10,800.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
Total Fees	= \$ 375.00
<u>Less payments</u>	= \$ 1,575.00
Refund Due Claimants	= \$ 1,200.00

2. Respondent McDonald is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
Total Fees	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$10,800.00
Total Fees	= \$10,800.00

<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$10,800.00

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


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ARBITRATION PANEL

Jonathan I. Klein, Esq.	-	Public Arbitrator, Presiding Chairperson
Andrew G. Young	-	Public Arbitrator
Bert Cliff	-	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.


Jonathan I. Klein, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Andrew G. Young
Public Arbitrator

Signature Date

Bert Cliff
Non-Public Arbitrator

Signature Date

March 21, 2005
Date of Service (For NASD Dispute Resolution use only)

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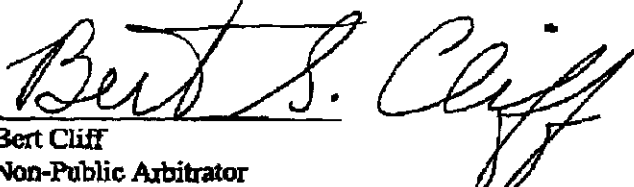
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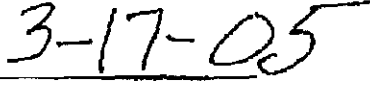
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