
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Janney Montgomery Scott LLC

Case Number: 04-02017

Name of the Respondent
Bruce Horner

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Member vs. Customer.

REPRESENTATION OF PARTIES

For Janney Montgomery Scott, LLC, hereinafter referred to as "Claimant": Carrie L. Chelko, Esq., Vice President, Office of General Counsel, Janney Montgomery Scott, LLC, Philadelphia, Pennsylvania.

Bruce Horner, hereinafter referred to as "Respondent", did not appear.

CASE INFORMATION

Statement of Claim filed on or about: March 24, 2004.

Claimant signed the Uniform Submission Agreement: March 19, 2004.

Respondent did not file a Statement of Answer or an executed Uniform Submission Agreement.

Motion to Preclude Evidence for Respondent's Failure to File an Answer filed by Claimant on or about: June 2, 2004.

CASE SUMMARY

Claimant asserted that Respondent failed to pay an unpaid debit balance in his account resulting from checks deposited by Respondent that were returned for insufficient funds.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$88,624.65 (as of December 8, 2003), plus interest, costs and such further relief as deemed just by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not appear at the evidentiary hearing. Upon review of the file and the representations made by Claimant, the Panel determined that Respondent received due notice of the hearing, and that arbitration of the matter would proceed without Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the account-opening agreement executed by Respondent on July 8, 2003.

On or about August 17, 2004, the Panel issued an Order that denied Claimant's motion to preclude evidence.

The parties present at the hearing 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 post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$88,624.65, plus interest in the amount of \$5,565.14, calculated at the Florida statutory rate from January 1, 2004 through October 19, 2004.

Any and all claims for relief not specifically addressed herein are 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	= \$1,000.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Claimant is a member firm and a party.

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

Adjournment Fees

No adjournments were requested in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

Three-day cancellation fees were not assessed in this matter.

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.

Injunctive relief fees were not assessed in this matter.

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:

One (1) Pre-hearing session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: August 17, 2004 1 session	
One (1) Hearing session @ \$750.00/session	= \$ 750.00
Hearing Date: October 19, 2004 1 session	
<hr/> Total Forum Fees	<hr/> = \$1,500.00

The Panel has assessed the total forum fees of \$1,500.00 to Respondent.

Administrative Costs

Administrative costs are expenses 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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$4,550.00
<u>Less Payments</u>	<u>= \$4,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

<u>Forum Fees</u>	<u>= \$1,500.00</u>
Total 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 receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Nancy J. Cliff, Esq.	-	Public Arbitrator, Presiding Chairperson
Steven Goerke, Esq.	-	Public Arbitrator
Karen Z. Fischer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Nancy J. Cliff, Esq.
Public Arbitrator, Presiding Chairperson

October 20, 2004
Signature Date

_____/s/_____
Steven Goerke, Esq.
Public Arbitrator

October 21, 2004
Signature Date

_____/s/_____
Karen Z. Fischer
Non-Public Arbitrator

October 22, 2004
Signature Date

October 22, 2004
Date of Service (For NASD Dispute Resolution office use only)

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<u>Less Payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,500.00

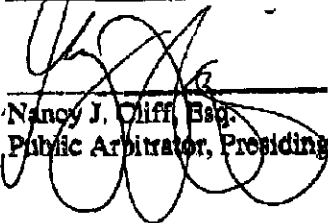
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Steven Goerke, Esq.
Karen Z. Fischer

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Nancy J. Cliff, Esq.
Public Arbitrator, Presiding Chairperson

10/20/04

Signature Date

Steven Goerke, Esq.
Public Arbitrator

Signature Date

Karen Z. Fischer
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date


Steven Goerke, Esq.
Public Arbitrator

10/21/04

Signature Date

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Non-Public Arbitrator

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Signature Date

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Public Arbitrator

Signature Date



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Non-Public Arbitrator



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