

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Harash D. Vashishat

Case Number: 04-02966

Names of the Respondents
Arif Ahmed
Paul Moulden

Hearing Site: Washington, DC

Nature of the Dispute: Customer vs. Associated Persons.

REPRESENTATION OF PARTIES

Claimant, Harash Vashishat, hereinafter referred to as "Claimant", was represented by Daniel T. Wright, Esq., Attorney at Law, Rockville, Maryland.

Respondents, Arif Ahmed ("Ahmed") and Paul Moulden ("Moulden"), hereinafter collectively referred to as "Respondents", were represented by Ira L. Oring, Esq., Fedder & Garten Professional Association, Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on April 21, 2004.

Claimant signed the Uniform Submission Agreement on April 20, 2004.

Statement of Answer and Motion to Dismiss filed by Respondents on August 3, 2004.

Respondent Ahmed did not file a Uniform Submission Agreement.

Respondent Moulden signed the Uniform Submission Agreement on September 15, 2004.

Response to the Motion to Dismiss and Statement of Defense filed by Claimant on August 18, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading, breach of fiduciary duty, and suitability. The causes of action relate to the purchase of various unspecified technology stocks for Claimant's IRA account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim is barred by the doctrine of laches; assumption of the risk; the Statement of Claim is barred by waiver, ratification and estoppel; failure to mitigate damages; ratification; and the Statement of

Claim fails to set forth a claim upon which relief can be granted.

RELIEF REQUESTED

Claimant in his Response to the Motion to Dismiss and Statement of Defense requested:

Compensatory Damages	\$ 97,000.00
Punitive Damages	\$100,000.00

Respondents in their Statement of Answer and Motion to Dismiss requested that all references to this arbitration be expunged from Respondents Ahmed's and Moulden's records maintained by the NASD Central Registration Depository ("CRD"); that they be awarded costs, forum fees and attorneys' fees; and that the Arbitration Panel (the "Panel") dismiss the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel denied Respondents' Motion to Dismiss at the outset of the hearing on the merits. Respondents renewed the Motion to Dismiss at the conclusion of Claimant's case-in-chief. Upon consideration of post-hearing briefs submitted by the parties, the Panel denied the renewed Motion to Dismiss.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondents Ahmed and Moulden are denied in their entirety;
2. All claims for punitive damages and attorneys' fees are denied in their entirety;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ahmed's and Respondent Moulden'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, Respondents Ahmed and Moulden must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

4. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein is denied in its entirety.

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

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondents are employed at Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch")

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$1,125.00 = \$1,125.00
Pre-hearing conference: November 3, 2004 1 session

Three (3) Hearing sessions @ \$1,125.00	= \$3,375.00
Hearing Dates: June 20, 2005 2 sessions	
June 21, 2005 1 session	
<u>Total Forum Fees</u>	<u>= \$4,500.00</u>

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:
Initial Filing Fee = \$ 300.00

Forum Fees	= \$1,125.00
Total Fees	= \$1,425.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$3,375.00
Total Fees	= \$3,375.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$3,375.00

3. Merrill Lynch is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 00.00

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

ARBITRATION PANEL

Baunita M. Greer	-	Non-Public Arbitrator, Presiding Chairperson
John Finarelli	-	Public Arbitrator, Panelist
Daniel H. Margolis, Esq.	-	Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Baunita M. Greer

Baunita M. Greer
Non-Public Arbitrator, Presiding Chairperson

7-11-05
Signature Date

John Finarelli
Public Arbitrator, Panelist

Signature Date

Daniel H. Margolis, Esq
Public Arbitrator, Panelist

Signature Date

7/11/05


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

Concurring Arbitrators' Signatures

Baunita M. Greer

Non-Public Arbitrator, Presiding Chairperson

Signature Date



John Finarelli

Public Arbitrator, Panelist

11 July 2005

Signature Date

Daniel H. Margolis, Esq.

Public Arbitrator, Panelist

Signature Date

7/11/05

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

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Concurring Arbitrators' Signatures

Baunita M. Greer

Non-Public Arbitrator, Presiding Chairperson

Signature Date

John Finarelli

Public Arbitrator, Panelist

Signature Date

Daniel H. Margolis

Daniel H. Margolis, Esq.
Public Arbitrator, Panelist

July 8, 2005

Signature Date

7/11/05

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