

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kashner Davidson Securities Corporation (Claimant) v. Steven Mscisz, Mark Mscisz, and Lynda Mscisz (Respondents) v. Victor Kashner, Matthew Meister, and Timothy Varchetto (Third-Party Respondents)

Case Number: 04-03793

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Member vs. Customers (Initial Claim).
Customers vs. Member (Counterclaim)
Customers vs. Associated Persons (Third-Party Claims).

REPRESENTATION OF PARTIES

Claimant Kashner Davidson Securities Corporation ("KDSC") hereinafter referred to as "Claimant" and Third-Party Respondents Victor Kashner ("V. Kashner"), Matthew Meister ("M. Meister"), and Timothy Varchetto ("T. Varchetto") hereinafter collectively referred to as "Third-Party Respondents": Howard M. Smith, Esq., Newman & Smith, Newton, MA. Previously represented by: Marc J. Ross, Esq., Sichenzia Ross Friedman Ference, LLP, New York, NY.

Respondents Steven Mscisz ("S. Mscisz"), Mark Mscisz ("M. Mscisz"), and Lynda Mscisz ("L. Mscisz") hereinafter collectively referred to as "Respondents": William P. Corbett, Jr., Esq., The Corbett Law Firm, Lynn, MA.

CASE INFORMATION

Statement of Claim filed on or about: May 26, 2004.

Claimant signed the Uniform Submission Agreement: May 24, 2004.

Joint Statement of Answer, Affirmative Defenses, Counterclaims and Third-Party Claims filed by Respondents on or about: August 26, 2004.

Respondent S. Mscisz signed the Uniform Submission Agreement: August 26, 2004.

Respondent M. Mscisz signed the Uniform Submission Agreement: August 26, 2004.

Respondent L. Mscisz signed the Uniform Submission Agreement: August 26, 2004.

Joint Reply and Answer filed by Third-Party Respondents on or about: September 9, 2004.

Third-Party Respondent Kashner signed the Uniform Submission Agreement: October 1, 2004.

Third-Party Respondent Meister did not sign the Uniform Submission Agreement.

Third-Party Respondent Varchetto did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; money lent; open book account; and fraud/fraud in the inducement. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Counterclaims and Third-Party Claims, Claimant asserted the following causes of action: violations of Sections 7, 9, and 10(b) of the Securities Act of 1934; violations of the Florida Securities Transactions Act; violations of the Massachusetts Uniform Securities Act; violations of NASD Business Conduct Standards; common law fraud; unjust enrichment; conversion; breach of contract; violation of the Racketeer Influenced and Corrupt Organization Act; abuse of process; violation of the Massachusetts Consumer Protection Act and the Florida Consumer Protection Act.

Unless specifically admitted in their Reply and Answer of Third-Party Claims, Claimant and Third-Party Respondents denied the allegations made in the Counterclaims and Third-Party Claims and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$173,634.22; compensatory damages in the amount of \$176,923.98; interest; costs of collection, including NASD filing and hearing fees and attorneys' fees; and such other and further relief as the Panel deems just, fair, and equitable.

Respondents requested that the Panel dismiss Claimant's Statement of Claim, with prejudice; on their Counterclaims and Third-Party Claims, unspecified compensatory damages in threefold; prejudgment interest; attorneys' fees; costs; an order that Claimant disgorge and make full restitution to Respondents; other appropriate equitable relief; and such other and further relief as the Panel deems necessary and just.

Third-Party Respondents requested that the Panel award Claimant the relief sought in the Statement of Claim; that the Panel deny and dismiss each and every claim asserted in the Counterclaims and Third-Party Claims; that the Panel issue sanctions against Respondents; and such other and further relief as the Panel deems just, equitable, and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent L. Mscicz has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Third-Party Respondents Meister and Varchetto did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The Panel previously ruled that the Counterclaims and Third-Party Claims filed by Respondents are dismissed, with prejudice.

At the hearing, Claimant made an oral motion to conform the pleadings to the proof. After due consideration, the Panel determined to grant the motion.

Respondents made a motion for a stenographic transcription of the hearing. After due consideration, the Panel granted the motion and ordered the following: "Respondents are to provide NASD with a copy of the transcript. Claimant is to obtain the transcript at its own cost; Respondents do not have to pay for Claimant's transcript".

Respondents made a motion to dismiss for failure to make a prima facie case. After due consideration, the Panel denied the motion.

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. Respondents are jointly and severally liable for and shall pay Claimant compensatory damages in the amount of \$421,000.00, inclusive of attorneys' fees and costs according to the margin agreement, plus interest at the WSJ prime rate from May 18, 2005 until the date of payment of the award.
2. Respondents' Counterclaims and Third-Party Claims are dismissed.
2. Any and all relief not specifically addressed herein 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	= \$1,000.00
Third-Party Claim filing fee	= \$ 250.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Kashner Davidson Securities Corp. is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 2-4, 2005, adjournment by Respondents	= Waived
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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:

Tow (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: January 20, 2005	1 session
January 31, 2005	1 session

Three (3) Pre-hearing sessions with Panel @ \$1,000.00*	= \$3,000.00
Pre-hearing conferences: November 8, 2004	1 session
November 16, 2004	1 session
March 2, 2005	1 session

Three (3) Hearing sessions @ \$1,000.00	= \$3,000.00
Hearing Dates: May 17, 2005	2 sessions
May 18, 2005	1 session

Total Forum Fees	= \$6,900.00
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**In accordance with Rule 10332(c) of the Code of Arbitration Procedure, the forum fees assessed against the Respondents are based on the Respondents' hearing session deposit.*

1. The Panel has assessed \$6,900.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$1,000.00
<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$6,200.00
Less payments	= \$7,325.00
Refund Due Claimants	= \$1,125.00

2. Respondents are jointly and severally liable for:

Third-Party Claim Filing Fee	= \$ 250.00
Forum Fees	= \$6,900.00
Total Fees	= \$7,150.00
Less payments	= \$1,250.00
Balance Due NASD Dispute Resolution	= \$5,900.00

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

ARBITRATION PANEL

Arthur J. Giacomarra, Esq.	-	Public Arbitrator, Presiding Chairperson
Douglas R. Gray	-	Public Arbitrator
Patrick W. McKeon, Esq.	-	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.



Arthur J. Giacomarra, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Douglas R. Gray
Public Arbitrator

Signature Date

Patrick W. McKeon, Esq.
Non-Public Arbitrator

Signature Date

June 17, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

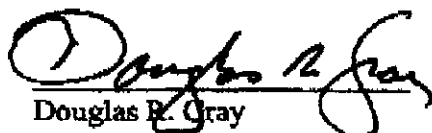
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Arthur J. Giacomarra, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Douglas R. Gray
Public Arbitrator

6-14-05

Signature Date

Patrick W. McKeon, Esq.
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Douglas R. Gray
Public Arbitrator

Signature Date

Patrick W. McKeon
Patrick W. McKeon, Esq.
Non-Public Arbitrator

6-17-05
Signature Date

June 17, 2005
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