

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Clarence M. Kobus (Claimant) v. Moors & Cabot, Inc., and Charles White (Respondents)

Case Number: 04-04735

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimant Clarence M. Kobus hereinafter referred to as "Claimant": James S. Jones, Esq., James S. Jones, L.P.A., Poland, OH.

Respondents Moors & Cabot, Inc., ("M&C") and Charles White ("White") hereinafter collectively referred to as "Respondents": Robert N. Rapp, Esq., Calfee, Halter & Griswold LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: June 28, 2004.

Claimant signed the Uniform Submission Agreement: June 27, 2004.

Joint Statement of Answer filed by Respondents on or about: September 2, 2004.

Respondent M&C signed the Uniform Submission Agreement: September 29, 2004.

Respondent White signed the Uniform Submission Agreement. August 27, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, breach of fiduciary duty, failure to supervise, excessive and unauthorized trading, and misrepresentations. The causes of action relate to high-tech and growth securities, mutual fund "B" shares, and utility and municipal bond funds, including GMAC and GNMA bonds.

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

RELIEF REQUESTED

Claimant requested: \$200,000.00 in compensatory damages, punitive damages in the amount of \$300,000.00, costs, reasonable attorneys' fees, and any other relief the Panel deems just and proper.

Respondents requested that all claims against them be dismissed, all forum fees and costs be assessed against Claimant, attorneys' fees and such further or affirmative relief as is shown to be necessary or appropriate upon consideration of the evidence, including expungement.

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, 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 liable for and shall pay to Claimant compensatory damages in the amount of \$5,000.00.
2. Respondent Moors & Cabot, Inc., is liable for and shall pay to Claimant compensatory damages in the amount of \$25,000.00.
3. 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 = \$ 300.00

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. Accordingly, M&C is a party.

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

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 @ \$1,125.00 = \$ 1,125.00
Pre-hearing conference: November 29, 2004 1 session

Eight (8) Hearing sessions @ \$1,125.00 = \$ 9,000.00
Hearing Dates: July 25, 2005 2 sessions
July 26, 2005 2 sessions
July 27, 2005 2 sessions
August 11, 2005 2 sessions

Total Forum Fees = \$10,125.00

1. The Panel has assessed \$10,125.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund Due Claimant	= \$ 1,125.00

2. Respondent M&C is solely liable for:

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

3. Respondents M&C and White are jointly and severally liable for:

<u>Forum Fees</u>	= \$10,125.00
Total Fees	= \$10,125.00
<u>Less payments</u>	= \$ 2,000.00
Balance Due NASD Dispute Resolution	= \$ 8,125.00

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

ARBITRATION PANEL

Edward F. Siegel, Esq.
James Dale Ellis, J.D.
Bert Cliff

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- 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.


Edward F. Siegel, Esq.
Public Arbitrator, Presiding Chairperson

8/16/05
Signature Date

James Dale Ellis, J.D.
Public Arbitrator

Signature Date

Bert Cliff
Non-Public Arbitrator

Signature Date

August 18, 2005
Date of Service (For NASD Dispute Resolution use only)

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