

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Moutz Soudani (Claimant) v. HSBC Brokerage (USA), Inc. f/k/a Marine Midland Securities (Respondent)

Case Number: 04-05101

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

Claimant Moutz Soudani hereinafter referred to as "Claimant" appeared *pro se*. Previously represented by William Paul Nolan, Esq., The Nolan Firm, New York, NY.

Respondent HSBC Brokerage (USA), Inc. f/k/a Marine Midland Securities hereinafter collectively referred to as "Respondent": Paul K. Stecker, Esq., Phillips Lytle, LLP, Buffalo, NY. Previously represented by Scott D. Miller, Esq., HSBC Brokerage (USA), Inc., Buffalo, NY.

CASE INFORMATION

Statement of Claim filed on or about: July 14, 2004.

Claimant signed the Uniform Submission Agreement: July 8, 2004.

Statement of Answer filed by Respondent on or about: October 6, 2004.

Respondent signed the Uniform Submission Agreement: September 24, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: common law fraud; suitability; breach of contract; breach of fiduciary duty; conversion; negligence; violation of New York General Business Law §349; and failure to supervise. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages between \$3,000,000.00 and \$5,000,000.00; pre-award interest; punitive damages; reasonable attorneys' fees; and the costs of this proceeding

including witness and production fees and other case related costs.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety and award Respondent HSBC all of its costs; attorneys' fees; expenses; and any other relief the Panel finds just and proper.

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

1. Claimant's claims are dismissed in their entirety.
2. 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 | Waived |
|--------------------------|--------|

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, HSBC Brokerage (USA) f/k/a Marine Midland Securities, Inc. is a party.

| | |
|-------------------------|---------------|
| Member surcharge | = \$ 2,800.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$ 5,000.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

| | |
|--|---------------|
| August 2-4, 2005 adjournment by Claimant | = \$ 1,200.00 |
|--|---------------|

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:

August 2, 2005 adjournment by Claimant = \$ 300.00

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 1,350.00

| | | |
|-------------------------|-----------------|-----------|
| Pre-hearing conference: | May 6, 2005 | 1 session |
| | June 29, 2005 | 1 session |
| | January 4, 2006 | 1 session |

One (1) Pre-hearing session with Panel @ \$1,200.00/session = \$ 1,200.00

| | | |
|-------------------------|------------------|-----------|
| Pre-hearing conference: | January 12, 2005 | 1 session |
|-------------------------|------------------|-----------|

Eight (8) Hearing sessions @ \$1,200.00/session = \$ 9,600.00

| | | |
|----------------|--------------------|------------|
| Hearing Dates: | September 13, 2005 | 2 sessions |
| | September 14, 2005 | 2 sessions |
| | September 15, 2005 | 2 sessions |
| | January 11, 2006 | 2 sessions |

Total Forum Fees = \$12,150.00

1. The Panel has assessed \$ 6,075.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 6,075.00 of the forum fees 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimant requested copies of tapes for September 13-15, 2005 hearings. Waived
2. Respondent requested copies of tapes for September 13-15, 2005 hearings. = \$165.00

Fee Summary

1. Claimant is solely liable for:

| | |
|-------------------------------------|----------------------|
| Adjournment Fee | = \$ 1,200.00 |
| Three-Day Cancellation Fee | = \$ 300.00 |
| <u>Forum Fees</u> | <u>= \$ 6,075.00</u> |
| Total Fees | = \$ 7,575.00 |
| <u>Less payments</u> | <u>= \$ 1,500.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 6,075.00 |

2. Respondent is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 8,550.00 |
| Administrative Costs | = \$ 165.00 |
| Forum Fees | = \$ 6,075.00 |
| Total Fees | = \$14,790.00 |
| Less payments | = \$10,165.00 |
| Balance Due NASD Dispute Resolution | = \$ 4,625.00 |

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

NASD Dispute Resolution
Arbitration No. 04-05101
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ARBITRATION PANEL

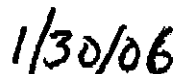
| | | |
|-------------------------|---|--|
| William A. Rome, J.D. | - | Public Arbitrator, Presiding Chairperson |
| Paul Schiffres | - | Public Arbitrator |
| Herbert Z. Geiger, Esq. | - | Non-Public Arbitrator |

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.



William A. Rome, J.D.
Public Arbitrator, Presiding Chairperson



Signature Date

Paul Schiffres
Public Arbitrator

Signature Date

Herbert Z. Geiger, Esq.
Non-Public Arbitrator

Signature Date



Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
|-------------------------|---|--|
| William A. Rome, J.D. | - | Public Arbitrator, Presiding Chairperson |
| Paul Schiffres | - | Public Arbitrator |
| Herbert Z. Geiger, Esq. | - | Non-Public Arbitrator |

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William A. Rome, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date

Paul Schiffres
Paul Schiffres
Public Arbitrator

1/26/2006
Signature Date

Herbert Z. Geiger, Esq.
Non-Public Arbitrator

Signature Date

January 31, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
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| William A. Rome, J.D. | - | Public Arbitrator, Presiding Chairperson |
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William A. Rome, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date

Paul Schiffres
Public Arbitrator

Signature Date



Herbert Z. Geiger, Esq.
Non-Public Arbitrator



Signature Date

January 31, 2006
Date of Service (For NASD Dispute Resolution use only)