

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

B&G Tobacco & Candy Co., Inc., Eisa Ganim,
Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim,
Issa Baba, Baba Family Partnership, Ltd., and
Ibrahim & Mazen Ganim Family Partnership, Ltd.

and

Case Number: 04-05397
Hearing Site: Houston, Texas

Names of Respondents

McDonald Investments, Inc. and
Rita Mansour

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

B&G Tobacco & Candy Co., Inc., Eisa Ganim, Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd. ("**Claimants**") were represented by Annette M. Henry, Esq., The Henry Law Firm, Houston, Texas, and William S. Shepherd, Esq., Shepherd, Smith & Edwards, LLP, Houston, Texas.

McDonald Investments, Inc. ("**McDonald**") and Rita Mansour ("**Mansour**"), hereinafter collectively referred to as "Respondents," were represented by Dayna W. Blair, Esq. and Scott Marrs, Esq., Beirne, Maynard & Parsons, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about July 29, 2004. The Submission Agreements of Claimants, B&G Tobacco & Candy Co., Inc., Eisa Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd., were signed on or about July 15, 2004. The Submission Agreement of Claimant, Shihadeh Ganim, was signed on or about July 16, 2004.

The Statement of Answer was filed jointly by Respondents, McDonald Investments, Inc. and Rita Mansour, on or about September 20, 2004. The Submission Agreement of

Respondent, McDonald Investments, Inc., was signed on or about September 16, 2004. The Submission Agreement of Respondent, Rita Mansour, was signed on or about September 17, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, misrepresentations, omissions, suitability, breach of fiduciary duty, churning and failure to supervise. The causes of action related to the recommendation and purchase of stocks in various, unspecified technology companies. Claimants alleged that Mansour often placed trades without first consulting any of the Claimants. Also, Claimants alleged that the purchases she made were over-concentrated in technology companies that were unsuitable for people in their sixties, particularly those with health problems facing retirement. Finally, Claimants alleged that McDonald Investments failed in its supervisory obligations and Respondents ignored Claimants' investment objectives and needs.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred in whole or in part by the doctrine of comparative responsibility; Claimants are estopped from complaining about the transactions at issue; Claimants, by their conduct, have waived any claims they might have had against Respondents that are alleged in their Statement of Claim; Claimants, acting with full knowledge and notice of the facts, ratified, approved, acquiesced and confirmed in all respects the acts complained of in their Statement of Claim; Claimants' causes of action are barred by laches and the applicable state and federal statutes of limitations; Claimants assumed the risks of the investments which they made through their decisions regarding when to purchase and whether to hold such securities; Claimants failed to mitigate their damages; and Claimants suitability claims failed to state a cause of action upon which relief can be granted.

RELIEF REQUESTED

Claimants requested an award in the amount of:

| | |
|-----------------------------|----------------|
| Actual/Compensatory Damages | \$5,000,000.00 |
| Punitive/Exemplary Damages | Unspecified |
| Interest | Unspecified |
| Attorneys' Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary Relief | Unspecified |

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents moved, at the conclusion of the Claimants' case, for a Directed Verdict. The Panel denied this 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice. The Panel concluded that the Claimants were sophisticated investors who knew the risks they were taking and elected to take those risks. Their own actions resulted in the losses they suffered;
- 2.) Claimants, B&G Tobacco & Candy Co., Inc., Eisa Ganim, Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd., are jointly and severally liable for and shall pay to Respondents, McDonald Investments, Inc. and Rita Mansour, the sum of \$213,721.00 in attorneys' fees pursuant to Texas law;
- 3.) Claimants, B&G Tobacco & Candy Co., Inc., Eisa Ganim, Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd., are jointly and severally liable for and shall pay to Respondents, McDonald Investments, Inc. and Rita Mansour, the sum of \$24,137.63 in costs;
- 4.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Rita Mansour's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Rita Mansour, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the

expungement directive; and

Unless NASD specifically waives this requirement in writing, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative finding of fact:

The claim, allegation, or information is clearly erroneous.

- 5.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$600.00

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. In this matter, the member firm is McDonald Investments, Inc.

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

Adjournment Fees

Adjournments granted during these proceedings:

June 6-10, 2005, adjournment requested by Claimants = \$ 1,200.00
(waived by the Panel)

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

| | |
|--|----------------|
| Two (2) Pre-hearing sessions with Panel x \$1,200.00 | = \$ 2,400.00 |
| Pre-hearing conferences: December 6, 2004 | 1 session |
| May 24, 2005 | 1 session |
| Ten (10) Hearing sessions x \$1,200.00 | = \$ 12,000.00 |
| Hearing Dates: December 7, 2005 | 2 sessions |
| December 8, 2005 | 2 sessions |
| December 9, 2005 | 2 sessions |
| December 10, 2005 | 2 sessions |
| December 12, 2005 | 2 sessions |
| Total Forum Fees | = \$ 14,400.00 |

The Arbitration Panel has assessed \$7,200.00 of the forum fees jointly and severally to B&G Tobacco & Candy Co., Inc., Eisa Ganim, Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd.

The Arbitration Panel has assessed \$7,200.00 of the forum fees jointly and severally to McDonald Investments, Inc. and Rita Mansour.

Fee Summary

Claimants, B&G Tobacco & Candy Co., Inc., Eisa Ganim, Shihadeh Ganim, Ibrahim Ganim, Mazen Ganim, Issa Baba, Baba Family Partnership, Ltd., and Ibrahim & Mazen Ganim Family Partnership, Ltd., are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| Initial Filing Fee | = \$ 600.00 |
| Forum Fees | = \$ 7,200.00 |
| Total Fees | = \$ 7,800.00 |
| Less payments | = \$ 1,800.00 |
| Balance Due NASD Dispute Resolution | = \$ 6,000.00 |

Respondent, McDonald Investments, Inc., is liable for:

| | |
|---------------|---------------|
| Member Fees | = \$ 8,550.00 |
| Total Fees | = \$ 8,550.00 |
| Less payments | = \$ 8,550.00 |

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents, McDonald Investments, Inc. and Rita Mansour, are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| Forum Fees | = \$ 7 200.00 |
| Total Fees | = \$ 7,200.00 |
| Less payments | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 7,200.00 |

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

ARBITRATION PANEL

David G. Beerbower, Esq. - Public Arbitrator, Presiding Chair
Richard Paul Bianchi - Public Arbitrator
William A. Wilson, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David G. Beerbower, Esq.
David G. Beerbower, Esq.
Public Arbitrator, Presiding Chair

December 19, 2005
Signature Date

/s/ Richard Paul Bianchi
Richard Paul Bianchi
Public Arbitrator

December 19, 2005
Signature Date

/s/ William A. Wilson, Esq.
William A. Wilson, Esq.
Non-Public Arbitrator

December 19, 2005
Signature Date

December 20, 2005
Date of Service (For NASD office use only)

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents, McDonald Investments, Inc. and Rita Mansour, are jointly and severally liable for:

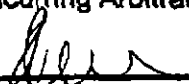
| | |
|-------------------------------------|---------------|
| Forum Fees | = \$ 7,200.00 |
| Total Fees | = \$ 7,200.00 |
| Less payments | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 7,200.00 |

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ARBITRATION PANEL

David G. Beerbower, Esq. - Public Arbitrator, Presiding Chair
Richard Paul Bianchi - Public Arbitrator
William A. Wilson, Esq. - Non-Public Arbitrator

Concurring Arbitrators:



David G. Beerbower, Esq.
Public Arbitrator, Presiding Chair

12-19-05

Signature Date

Richard Paul Bianchi
Public Arbitrator

Signature Date

William A. Wilson, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

| | |
|-------------------------------------|----------------------|
| Total Fees | = \$ 7,800.00 |
| <u>Less payments</u> | <u>= \$ 1,800.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 6,000.00 |

Respondent, McDonald Investments, Inc., is liable for:

| | |
|-------------------------------------|----------------------|
| Member Fees | = \$ 8,550.00 |
| Total Fees | = \$ 8,550.00 |
| <u>Less payments</u> | <u>= \$ 8,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondents, McDonald Investments, Inc. and Rita Mansour, are jointly and severally liable for:

| | |
|-------------------------------------|------------------|
| Forum Fees | = \$ 7,200.00 |
| Total Fees | = \$ 7,200.00 |
| <u>Less payments</u> | <u>= \$ 0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 7,200.00 |

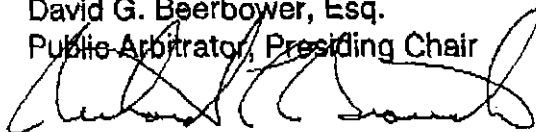
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Richard Paul Bianchi - Public Arbitrator
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David G. Beerbower, Esq.
Public Arbitrator, Presiding Chair



Richard Paul Bianchi
Public Arbitrator

Signature Date

12-19-05

Signature Date

William A. Wilson, Esq.
Non-Public Arbitrator

Signature Date

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents, McDonald Investments, Inc. and Rita Mansour, are jointly and severally liable for:

Forum Fees = \$ 7,200.00

Total Fees = \$ 7,200.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$ 7,200.00

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David G. Beerbower, Esq. - Public Arbitrator, Presiding Chair

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Signature Date

Richard Paul Bianchi
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William A. Wilson, Esq.
Non-Public Arbitrator

12-19-05

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