

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rafik Kamell, Claimant v. Man Securities, Inc., Respondent

Case Number: 04-07610

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Jeff Dennis Ferentz, Esq.
Nationwide Securities Arbitration Services, Inc.
Newport Beach, California

For Respondent:

William J. Nissen, Esq.
Sidley Austin Brown & Wood, LLP
Chicago, Illinois

CASE INFORMATION

Statement of Claim filed: October 27, 2004

Claimant's Uniform Submission Agreement signed: October 29, 2004

Statement of Answer filed by Respondent: February 10, 2005

Respondent's Uniform Submission Agreement signed: February 8, 2005

CASE SUMMARY

Claimant alleged violations of the Commodity Exchange Act and the Commodity Futures Trading Commission Regulations and the National Futures Association compliance rules, churning, unsuitability, negligence, fraud, deceit and omission of material fact, breach of fiduciary duty, and failure to supervise. Claimant's allegations involved investments in futures and commodity contracts.

Respondent Man Securities, Inc., in its response to the Statement of Claim, alleged that NASD Dispute Resolution lacked jurisdiction over the case as Claimant had no account or business relationship with Respondent Man Securities, Inc. Respondent alleged further, that Man Financial, Inc. is a separate and distinct entity from Man Securities, Inc. and that Man Financial Inc. is not a division or d/b/a or other name for Man Securities, Inc. as alleged in the Statement of Claim.

RELIEF REQUESTED

Claimant requested \$179,322.00 in compensatory damages, disgorgement in the amount of \$38,890.00, unspecified punitive damages, prejudgment and post-judgment interest at the highest legal rate, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On December 29, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 8, 2005, Respondent's counsel signed a Waiver Agreement on Respondent's behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 20, 2005, Respondent moved the Panel for an order dismissing the case against it on the ground that Claimant had brought this case against the wrong entity. Respondent averred that Man Financial, Inc. is not a division or d/b/a or other name for Man Securities, Inc. as alleged in the Statement of Claim and that Claimant had no account or business relationship with Respondent Man Securities, Inc. On June 1, 2005, Claimant filed an opposition. On June 23, 2005, a telephonic pre-hearing conference was held, attended by the parties and the Panel. After due deliberation in an executive session, the Panel granted Respondent's Motion to Dismiss.

The parties 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 Motion to Dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are dismissed in their entirety with prejudice.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the *NASD Code of Arbitration Procedure* ("Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Man Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Total Member Fees	= \$ 2,450.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences:	
May 5, 2005	1 session
June 23, 2005	1 session

Total Forum Fees	= \$ 2,250.00
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The Panel assessed \$2,250.00 of the forum fees to Claimant.

Fee Summary

1. Claimant Rafik Kamell is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 1,125.00

2. Respondent Man Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,450.00
Less payments	= \$(5,200.00)
Refund Due	= \$(2,750.00)

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

ARBITRATION PANEL

Richard J. Rosenthal

- **Public Arbitrator, Presiding Chair**

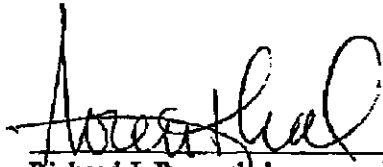
Chet I. Lappen

- **Public Arbitrator**

Kimbrough S. Bassett

- **Non-Public Arbitrator**

Concurring Arbitrators' Signatures


Richard J. Rosenthal
Chair, Public Arbitrator

29 June '05
Signature Date

Chet I. Lappen
Public Arbitrator

Signature Date

Kimbrough S. Bassett
Non-Public Arbitrator

Signature Date

6/30/05
Date of Service

ARBITRATION PANEL

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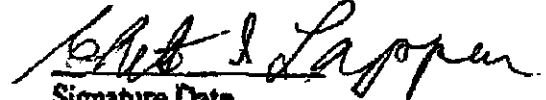
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Signature Date



Chet I. Lappen
Public Arbitrator



Signature Date

Kimbrough S. Bassett
Non-Public Arbitrator

Signature Date

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Date of Service

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Signature Date

6/30/05
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