

**Stipulated Award  
NASD Dispute Resolution**

In the Matter of the Arbitration Between:  
Catherine Madonia, Claimant

Case Number: 04-08334

v.  
NatCity Investments, Inc. and  
Michael S. Boyd, Respondents.

Hearing Site: St. Louis, Missouri

**NATURE OF THE DISPUTE**

Customer vs. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Claimant, Catherine Madonia ("Madonia"), hereinafter referred to as "Claimant": Bruce Oakes, Esq. and Richard B. Fosher, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

Respondents, NatCity Investments, Inc. ("NatCity") and Michael S. Boyd, ("Boyd"), hereinafter collectively referred to as "Respondents": Kenton E. Knickmeyer, Esq. Thompson Coburn LLP, St. Louis, MO.

**CASE INFORMATION**

Statement of Claim filed on or about: December 7, 2004  
Claimant, Madonia, signed an undated Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: February 11, 2005  
Respondent Boyd signed the Uniform Submission Agreement: February 9, 2005  
Respondent NatCity signed the Uniform Submission Agreement: March 7, 2005

**CASE SUMMARY**

Claimant asserted the following causes of action: Breach of Fiduciary Duty; Violation of Illinois Securities Act; Negligence/Negligent Misrepresentation; Violation of Section 10(b) of the Securities Exchange Act; Fraud; and Negligent Supervision. The causes of action relate to various stocks including Intel, Microsoft, Cisco, Motorola and Xerox.

Unless specifically admitted in its Answer, Respondents, NatCity and Boyd, denied the allegations made in the Statement of Claim and asserted the following defenses: Limitations; Failure to Mitigate Damages; Unconstitutionality of Requested Award of Punitive Damages; Ratification, Waiver, Estoppel, Assumption of Risk.

**RELIEF REQUESTED**

Claimant requested \$250,000.00 in compensatory damages, plus interest, attorney's fees and punitive damages, as well as costs of the proceeding.

Respondents, NatCity and Boyd, requested dismissal of claims with prejudice, assessment of all arbitration costs against Claimant, and expungement of referenced to this matter from the CRD file of Respondent Boyd.

### **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.

Settlement issues. Claimant has reached a settlement agreement with Respondent NatCity. The parties to that agreement have agreed that the terms of the settlement shall remain confidential. The parties stipulate and agree that NatCity has fully performed the material terms of the settlement agreement.

Pursuant to that Settlement Agreement, Claimant has agreed that all claims against both Respondents shall be dismissed with prejudice. The parties further agree that they each shall bear their own costs.

Respondent Boyd has moved for entry of an order recommending expungement of references to this proceeding from his CRD file. Claimant does not oppose such motion.

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims against Respondents are dismissed with prejudice.
- 2.) The parties shall each bear their own costs and attorneys fees associated with this matter.
- 3.) Respondent Boyd's motion for expungement is granted to the extent specified below.
- 4.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael S. Boyd's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Boyd must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, 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 findings of fact:

The claim, allegation, or information is false.

- 5.) That any and all 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 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. In this matter, the member firm is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

### **Fee Summary**

Claimant, Catherine Madonia, is hereby solely liable for:

Initial Filing Fee = \$ 300.00

Deposit amount retained by NASD pursuant to Rule 10332(f) = \$1,125.00

Total Fees = \$1,425.00

Less payments = \$1,425.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent, NatCity Investments, Inc., is hereby solely liable for:

Member Fees = \$5,200.00

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

All balances are due to NASD Dispute Resolution.

### **ARBITRATION PANEL**

R. Phillip Reed, Esq.	-	Public Arbitrator, Presiding Chairperson
Raymond R. Hirsch, Esq.	-	Public Arbitrator
Gregory C. Menne	-	Non-Public Arbitrator

#### **Concurring Arbitrators' Signatures**

/s/ R. Phillip Reed, Esq.

R. Phillip Reed, Esq.

Public Arbitrator, Presiding Chair

1/26/06

Signature Date

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/s/ Raymond R. Hirsch, Esq.  
Raymond R. Hirsch, Esq.  
Public Arbitrator

2/3/06  
Signature Date

/s/ Gregory C. Menne  
Gregory C. Menne  
Non-Public Arbitrator

1/26/06  
Signature Date

1/27/06  
Date of Service (For NASD office use only)

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R. Phillip Reed, Esq.  
Public Arbitrator, Presiding Chair

26 January 2006  
Signature Date

  
Raymond R. Hirsch, Esq.  
Public Arbitrator

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Non-Public Arbitrator

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