

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William Zeffiro and Lynne Wilson Zeffiro JTWROS (Claimant) vs. Mark Gladstone and Cantor, Weiss & Friedner, Inc. (Respondents)

Case Number: 05-00024

Hearing Site: New York, New York.

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

REPRESENTATION OF PARTIES

Claimant William Zeffiro and Lynne Wilson Zeffiro JTWROS ("Zeffiro") hereinafter referred to as ("Claimant"): appeared *pro se*.

Respondent Mark Gladstone ("Gladstone") hereinafter referred to as ("Gladstone"): appeared *pro se*.

Respondent Cantor, Weiss & Friedner, Inc. ("Cantor") hereinafter referred to as ("Cantor"): Paul S. Cantor, Esq., Cantor, Weiss & Friedner, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 29, 2004.

Claimant signed the Uniform Submission Agreement: December 30, 2004.

Statement of Answer and Counterclaim filed by Respondent Gladstone on or about: January 28, 2005.

Respondent Gladstone signed the Uniform Submission Agreement: January 28, 2005.

Statement of Answer filed by Respondent Cantor on or about: March 24, 2005.

Respondent Cantor signed the Uniform Submission Agreement: March 24, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: margin calls, negligence, churning and omission of facts.

Unless specifically admitted in his Answer, Respondent Gladstone denied the allegations made against him in the Statement of Claim and asserted various affirmative defenses.

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

In his Counterclaim, Gladstone asserted the following cause of action: lost wages.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$16,500.00 as well as \$575.00 for filing and arbitration fees, and additional damages (interest, etc.) that the arbitrator may deem proper.

In his Statement of Answer and Counterclaim, Gladstone requested that the Statement of Claim be denied and that the Counterclaim be granted for compensatory damages in the amount of \$10,000.00 for lost wages, expenses for legal fees and filings fees and cost for printing and assembling documentation.

In its Statement of Answer, Cantor requested attorneys' fees and costs estimated to be approximately \$20,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 18, 2005, Claimant reached a settlement of their claims against Respondent Cantor.

On October 24, 2005, at the hearing in this matter, Claimant withdrew any and all claims against Respondent Cantor.

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.

ARBITRATOR'S DETERMINATION

This case presented significant issues of credibility relating to the content of one or two conversations some eleven years ago and about the level of investment risk acceptable to Complainant. Although I find that all witnesses offered truthfully representations of their best current recollections of those conversations, due to the passage of time and intervening events, I find that such testimony is of little probative weight. Rather, I have found to be persuasive the relevant documentary evidence submitted by the parties as well as the actions of the parties themselves. Based thereupon, I find that at all relevant times Respondent Gladstone acted consistently with the authority granted him by Complainant, and that Complainant have failed to establish any claim alleged in the Statement of Claim.

AWARD

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

1. Claimant's claims are hereby denied in their entirety.
2. Respondent Gladstone's Counterclaims are hereby denied in its entirety.

3. Any and all relief not specifically addressed herein 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	= \$ 125.00
Counterclaim filing fee	= \$ 75.00

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, Respondent Cantor, Weiss & Friedner, Inc. is a party.

Member surcharge	= \$ 425.00
Total Member fees	= \$ 425.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 8, 9, 10, 11 & 12, 2005 adjournment by Respondent Cantor	= \$ 450.00
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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 8, 9, 10, 11 & 12, 2005 adjournment by Respondent Cantor	= \$ 100.00
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Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 per session	= \$ 450.00
Pre-hearing conference: May 17, 2005 1 session	

Two (2) Hearing sessions @ \$450.00 per session	= \$ 900.00
Hearing Date(s): October 24, 2005 2 sessions	
Total Forum Fees	= \$ 1350.00

1. The Arbitrator has assessed \$600.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$150.00 of the forum fees to Respondent Cantor.
3. The Arbitrator has assessed \$600.00 of the forum fees to Respondent Gladstone.

Fee Summary

1. Claimant is solely liable for:

	Initial Filing Fee	= \$	125.00
	Forum Fees	= \$	600.00
	Total Fees	= \$	725.00
	<u>Less payments</u>	= \$	575.00
	Balance Due NASD Dispute Resolution	= \$	150.00
2.	Respondent Gladstone is solely liable for:		
	Counterclaim Filing Fees	= \$	75.00
	Forum Fees	= \$	600.00
	Total Fees	= \$	675.00
	<u>Less payments</u>	= \$	325.00
	Balance Due NASD Dispute Resolution	= \$	350.00
3.	Respondent Cantor is solely liable for:		
	Member Fees	= \$	425.00
	Adjournment Fees	= \$	450.00
	Three-Day Cancellation Fee	= \$	100.00
	Forum Fees	= \$	150.00
	Total Fees	= \$	1,125.00
	<u>Less Payment</u>	= \$	875.00
	Balance Due NASD Dispute Resolution	= \$	250.00

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

ARBITRATOR

Timothy J. Brown, Esq. - Sole Public Arbitrator

AFFIRMATION

I, Timothy J. Brown, Esq. 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.


Timothy J. Brown, Esq.

11/2/05
Signature Date

November 3, 2005

Date of Service (For NASD Dispute Resolution use only)