

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Frank Carlino, Claimant v. Greenberg Financial Group, Inc. f/k/a Greenberg Nehls & Company, Inc., Respondent

Case Number: 05-00034

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Mark D. Lammers, Esq.
Lammers & Barkley, P.C.
Tucson, Arizona

For Respondent:

Harris L. Kay, Esq.
LeClair Ryan
Richmond, Virginia

Thomas J. McGonigle, Esq.
LeClair Ryan
Washington, DC

CASE INFORMATION

Statement of Claim filed: on or about December 28, 2004

Claimant's Uniform Submission Agreement signed: undated

Statement of Answer filed by Respondent: March 9, 2005

Respondent's Uniform Submission Agreement signed: March 14, 2005

CASE SUMMARY

Claimant alleged negligence, suitability, breach of contract, and breach of fiduciary duty. The dispute involved, but was not limited to, the purchase and/or sale of the NASDAQ Trust, 5 Advanced Micro puts, and 3 AOL puts.

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

RELIEF REQUESTED

Claimant requested damages for investment losses, opportunity losses, interest, emotional distress, and mental suffering in an amount not to exceed \$100,000.00. Additionally, Claimant requested that Respondent be assessed attorney's fees and costs.

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

OTHER ISSUES CONSIDERED AND DECIDED

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimant \$72,038.81 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant simple interest on the sum of \$72,038.81 at the rate of 10% per annum from the date of service of this Award until the Award is paid in full.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the *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	= \$ 225.00
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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 Greenberg Financial Group, Inc. f/k/a Greenberg Nehls & Company, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

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:

One (1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: May 3, 2005 1 session	
Five (5) Hearing sessions @ \$750.00/session	= \$ 3,750.00
Hearings: January 3, 2006 2 sessions	
January 4, 2006 3 sessions	
Total Forum Fees	= \$ 4,500.00

The Panel assessed \$4,500.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 225.00
<u>Less payments</u>	= \$(975.00)
Refund Due Claimant	= \$(750.00)

2. Respondent is charged with the following fees and costs:

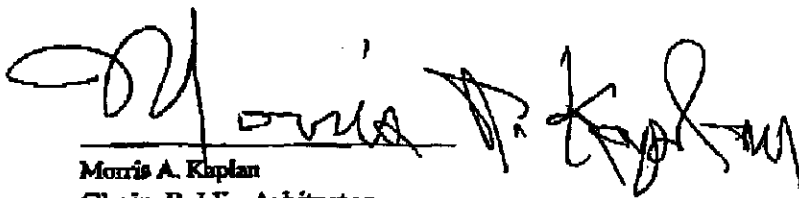
Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 4,500.00
Total Fees	= \$ 8,050.00
<u>Less payments</u>	= \$(3,550.00)
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

Morris A. Kaplan	-	Public Arbitrator, Presiding Chair
Rick A. Skaarer	-	Public Arbitrator
Stephen L. Przewlocki	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Morris A. Kaplan
Chair, Public Arbitrator



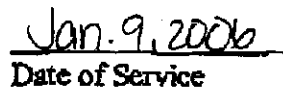
Signature Date

Rick A. Skaarer
Public Arbitrator

Signature Date

Stephen L. Przewlocki
Non-Public Arbitrator

Signature Date


Date of Service


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Stephen L. Przewlocki	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Morris A. Kaplan
Chair, Public Arbitrator

Signature Date



Rick A. Skaarer
Public Arbitrator

1-6-06
Signature Date

Stephen L. Przewlocki
Non-Public Arbitrator

Signature Date

Jan. 9, 2006
Date of Service

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1/9/06
Signature Date

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Date of Service