

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lester E. Fontaine and Carolyn P. Fontaine (Claimants) vs. Morgan Wilshire Securities, Inc.,
Brian Mandart and Michael Finnan (Respondents)

Case Number: 05-00607

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant Lester E. Fontaine ("L. Fontaine") and Carolyn P. Fontaine ("C. Fontaine") hereinafter collectively referred to as "Claimants": Walter K. McLaughlin, Esq., Springfield, MA.

Respondents Morgan Wilshire Securities, Inc. ("Morgan Wilshire"), Brian Mandart ("Mandart"), and Michael Finnan ("Finnan") hereinafter collectively referred to as "Respondents": Stanley W. Wheatley, Esq., The Murphy Law Group, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: January 25, 2005.

Claimant L. Fontaine signed the Uniform Submission Agreement: February 17, 2005.

Claimant C. Fontaine signed the Uniform Submission Agreement: February 17, 2005.

Statement of Answer filed by Respondents on or about: April 25, 2005.

Respondent Morgan Wilshire signed the Uniform Submission Agreement: April 25, 2005.

Respondent Mandart did not submit a Uniform Submission Agreement.

Respondent Finnan did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, unauthorized trading, breach of fiduciary duty, and misrepresentation. The causes of action relate to unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$314,384.00 plus interest, forum fees, attorneys' fees and other costs.

Respondents requested that the Panel dismiss the Statement of Claim with prejudice and grant them such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Mandart and Finnan did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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.

AWARD

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

1. Claimants' claims are dismissed in their entirety.
2. 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	= \$ 300.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, Morgan Wilshire Securities, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 13, 2005, adjournment by Respondents	= \$1,125.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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) Decision on discovery-related motion on the papers
with (1) one arbitrator @ \$200.00 = \$ 200.00
Respondent submitted (one) discovery-related motion

Three (3) Pre-hearing sessions with Panel @ \$1,125 per session = \$3,375.00
Pre-hearing conferences: August 3, 2005 1 session
September 22, 2005 1 session
December 13, 2005 1 session

Two (2) Hearing sessions @ \$1,125 per session = \$2,250.00

Hearing Date: May 2, 2006 2 sessions

Total Forum Fees = \$5,825.00

1. The Panel has assessed \$5,825.00 of the forum fees to Claimants.

Fee Summary

1. Claimants are liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$5,825.00
Total Fees	= \$6,125.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$4,700.00

2. Respondent Morgan Wilshire is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:


<u>Adjournment Fee</u>	= \$1,125.00
Total Fees	= \$1,125.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

ARBITRATION PANEL

Chesley Oriel, Esq.	-	Public Arbitrator, Presiding Chairperson
Russell H. Baller, Jr., Esq.	-	Public Arbitrator
John A. Goc	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Chesley Oriel, Esq.
Public Arbitrator, Presiding Chairperson

5/5/06

Signature Date

Russell H. Baller, Jr., Esq.
Public Arbitrator

Signature Date

John A. Goc
Non-Public Arbitrator

Signature Date

May 10, 2006

Date of Service (For NASD Dispute Resolution use only)

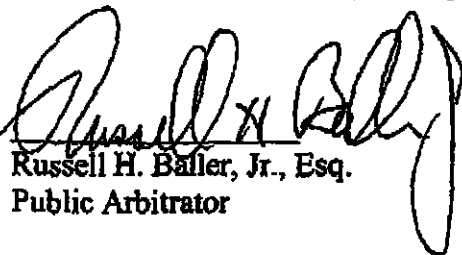
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