
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Robert K. Mitchell Trust

Case Number: 05-00828

Names of the Respondents
Kevin Tuttle
John W. DuBrule

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Associated Person.

REPRESENTATION OF PARTIES

For Robert K. Mitchell Trust, hereinafter referred to as "Claimant": Robert K. Mitchell, TTEE, Clermont, Florida.

Kevin Tuttle ("Tuttle") and John W. DuBrule ("DuBrule"), hereinafter collectively referred to as "Respondents", appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2005.

Claimant signed the Uniform Submission Agreement: January 27, 2005.

Statements of Answer filed by Respondents on or about: March 3, 2005.

Respondent Tuttle signed the Uniform Submission Agreement: April 7, 2005.

Respondent DuBrule signed the Uniform Submission Agreement: April 7, 2005.

CASE SUMMARY

Claimant asserted a cause of action for unauthorized trading. The cause of action relates to investments in shares of stock in Palmsource, Inc.

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

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$12,666.70; 2) punitive damages in the amount of \$25,333.40; 3) costs; and 4) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent DuBrule requested: 1) that Claimant's claims be denied in their entirety; and 2) costs

to be incurred with obtaining expungement of Respondent DuBrule's registration records maintained by the Central Registration Depository ("CRD").

Respondent Tuttle requested that Claimant's claims be denied in their entirety.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Claimant's request for punitive damages is denied.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents DuBrule's and Tuttle's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 04-16, Respondents DuBrule and Tuttle 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:

As to Respondent DuBrule only, Respondent DuBrule, the registered person, was not involved in the alleged investment-related sales practice violation.

As to Respondent Tuttle only, the claim, allegation, or information is false.

4. Claimant is liable and shall pay to Respondent DuBrule costs to be incurred by Respondent DuBrule with obtaining confirmation of expungement from a court of competent jurisdiction. The Panel defers the determination on the amount of costs to a court of competent jurisdiction.
5. Any and all claims for relief not specifically addressed herein are 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 = \$ 175.00

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(s) at the time of the events giving rise to the dispute. Accordingly, Capital Securities of America, Inc. is a member firm and employed Respondents at the time of the events giving rise to the dispute.

Member surcharge = \$ 875.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: July 26, 2005 1 session

One (1) Pre-hearing session with Panel @ \$600.00 = \$ 600.00
Pre-hearing conference: June 21, 2005 1 session

Two (2) Hearing sessions @ \$600.00 = \$1,200.00
Hearing Date: August 29, 2005 2 sessions

Total Forum Fees = \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Claimant.

The Panel has assessed \$1,125.00 of the forum fees to Respondents DuBrule and Tuttle, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$1,125.00
Total Fees	= \$1,300.00
<u>Less payments</u>	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 525.00

Capital Securities of America, Inc. is solely liable for:

<u>Member Fees</u>	= \$2,625.00
Total Fees	= \$2,625.00
<u>Less payments</u>	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</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

<i>Patricia Gunn Zimmerman, CPA</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>James Barry Wright</i>	-	<i>Public Arbitrator</i>
<i>Marc S. Piven</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
Patricia Gunn Zimmerman, CPA
Public Arbitrator, Presiding Chairperson

August 30, 2005
Signature Date

/s/
James Barry Wright
Public Arbitrator

August 30, 2005
Signature Date

 /s/
Marc S. Piven
Non-Public Arbitrator

August 30, 2005
Signature Date

September 1, 2005
Date of Service (For NASD Dispute Resolution use only)

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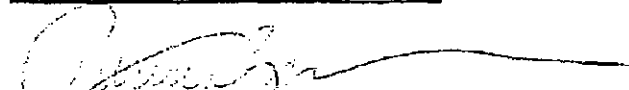
<u>Forum Fees</u>	= \$1,125.00
Total Fees	= \$1,125.00
<u>Less payments</u>	= \$ 0.00
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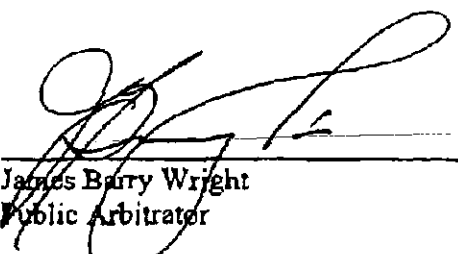
Concurring Arbitrators' Signatures



Patricia Gunn Zimmerman, CPA
Public Arbitrator, Presiding Chairperson

8/30/05
Signature Date

Aug 31
AUG



James Barry Wright
Public Arbitrator

8/30/05

Signature Date

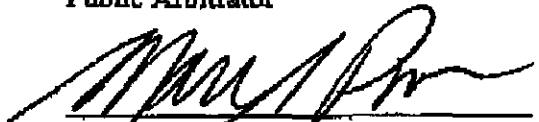
Marc S. Piven
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

James Barry Wright
Public Arbitrator

Signature Date



Marc S. Eiven
Non-Public Arbitrator

8/30/2005

Signature Date

Date of Service (For NASD Dispute Resolution use only)