

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 05-01159

Thomas W. Bishop

Names of the Respondents

Hearing Site: Richmond, Virginia

National Securities Corporation

Gary M. Stewart

Alexander M. Shapiro

Thomas Daniel Ellen

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

REPRESENTATION OF PARTIES

Claimant, Thomas W. Bishop, hereinafter referred to as "Claimant", was represented by Jay J. Levit, Esq., Levit & Mann, P.C., Richmond, Virginia.

Respondents, National Securities Corporation ("National") and Gary M. Stewart ("Stewart") were represented by William G. Shields, Esq., William G. Shields & Associates, P.C., Richmond, Virginia.

Respondent Alexander M. Shapiro ("Shapiro") appeared pro se.

Respondent Thomas Daniel Ellen ("Ellen") appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about March 7, 2005.

Claimant signed the Uniform Submission Agreement on March 3, 2005.

Statement of Answer filed by Respondents National and Stewart on March 9, 2005.

Counterclaim filed by Respondent Stewart on March 9, 2005.

Statement of Answer filed by Respondent Shapiro on or about June 16, 2005.

Statement of Answer filed by Respondent Ellen on June 14, 2005.

Respondent Stewart signed the Uniform Submission Agreement on June 29, 2005.

Respondents National, Shapiro, and Ellen did not file Uniform Submission Agreements with NASD Dispute Resolution.

Claimant's Motion to Dismiss Respondent Stewart's Counterclaim was filed on May 18, 2005.

Respondent Stewart's Response to Claimant's Motion to Dismiss was filed on June 21, 2004.

Respondents National and Stewart's Memorandum in Support of the Motion to Dismiss was

filed on August 19, 2005.

Respondents Shapiro and Ellen's Memorandum in Support of the Motion to Dismiss was filed on September 7, 2005.

Claimant's Response to the Motion to Dismiss was filed on September 8, 2005.

Respondents National and Stewart's Rebuttal Brief was filed on September 12, 2005.

Claimant and Respondent Stewart's Agreed Motion to Consolidate was filed on July 14, 2005.

Claimant's Motion to Consolidate was filed on July 25, 2005.

Claimant withdrew his Motion to Consolidate on August 12, 2005.

CASE SUMMARY

In his Statement of Claimant, Claimant asserted the following causes of action, among others: conspiracy, common law conspiracy, tortious interference with business contracts, and tortious interference with business expectations. The causes of action relate to business relations between the parties.

Unless specifically admitted in their Answer, Respondents National and Stewart denied the allegations made in the Statement of Claim and asserted the following defenses, among others: intracorporate immunity to claims of conspiracy, qualified privilege, statute of limitations, *res judicata*, and failure to state a claim.

Unless specifically admitted in his Answer, Respondent Shapiro denied the allegations made in the Statement of Claim

Unless specifically admitted in his Answer, Respondent Ellen denied the allegations made in the Statement of Claim.

In their Counterclaim, Respondents National and Stewart asserted the following causes of action: libel, fighting words, unauthorized use of NASD Central Registration Depository, and tortious interference with contract.

RELIEF REQUESTED

Claimant in his Statement of Claim requested, compensatory damages of \$2,500,000.00, punitive damages of \$750,000.00, treble damages, attorney's fees, costs, and temporary, preliminary, and permanent injunctive relief.

Respondents National and Stewart in their Statement of Answer requested that the Panel dismiss the Statement of Claim, and award them attorney's fees and costs.

Respondent Shapiro in his Statement of Answer requested that the Panel reject the Statement of Claim.

Respondent Ellen in his Statement of Answer requested that the Panel reject the Statement of

Claim.

Respondent Stewart in his Counterclaim requested:

Compensatory Damages	\$2,500,000.00
Punitive Damages	\$2,500,000.00

OTHER ISSUES CONSIDERED AND DECIDED

Respondents National, Shapiro, and Ellen did not file with NASD Dispute Resolution, a properly executed submission to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (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 Panel denied the Respondents' Motion to Dismiss the Statement of Claim.

At the hearing, Claimant requested that Respondent Stewart's Counterclaim be dismissed. The Panel reserved ruling on Claimant's request to dismiss Respondent Stewart's Counterclaim until the conclusion of the case.

At the hearing, the Claimant reduced his request for damages to \$157,492.38.00.

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. All claims against Respondents are denied in their entirety;
2. The Counterclaim is denied in its entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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	= \$ 600.00
Counterclaim filing fee	= \$ 600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent National is a party.

Member surcharge	= \$ 3,350.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 5,500.00</u>
Total Member Fees	= \$ 9,600.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: July 11, 2005 1 session	

Eight (8) Hearing sessions @ \$1,200.00	= \$ 9,600.00
Hearing Dates:	
October 17, 2005	2 sessions
October 18, 2005	2 sessions
November 29, 2005	2 sessions
November 30, 2005	2 sessions
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Total Forum Fees	= \$10,800.00

1. The Panel has assessed \$2,160.00 of the forum fees to Claimant.
2. The Panel has assessed \$2,160.00 of the forum fees to Respondent National.
3. The Panel has assessed \$2,160.00 of the forum fees to Respondent Stewart.
4. The Panel has assessed \$2,160.00 of the forum fees to Respondent Shapiro.
5. The Panel has assessed \$2,160.00 of the forum fees to Respondent Ellen.

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.

1. National requested copies of exhibits	= \$ 35.50
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EEE SUMMARY

1. Claimant is assessed and shall pay the following fees:	
Initial Filing Fee	= \$ 600.00

<u>Forum Fees</u>	= \$ 2,160.00
Total Fees	= \$ 2,760.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 960.00

2. Respondent National is assessed and shall pay the following fees:

Member Fees	= \$ 9,600.00
Forum Fees	= \$ 2,160.00
<u>Administrative Costs</u>	= \$ 35.50
Total Fees	= \$11,795.50
<u>Less payments</u>	= \$12,300.00
Refund Owed Respondent	= \$ 504.50

3. Respondent Stewart is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 2,160.00
Total Fees	= \$ 2,760.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,760.00

4. Respondent Shapiro is assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$ 2,160.00
Total Fees	= \$ 2,160.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,160.00

5. Respondent Ellen is assessed and shall pay the following fees:

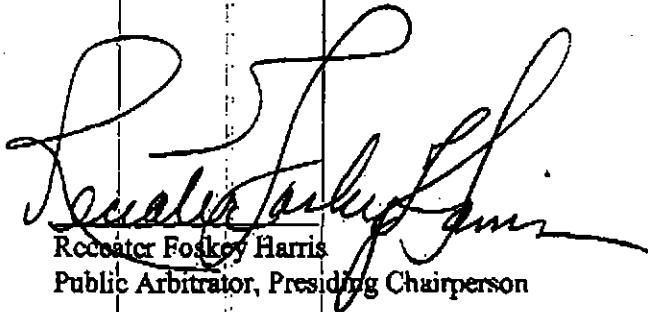
<u>Forum Fees</u>	= \$ 2,160.00
Total Fees	= \$ 2,160.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,160.00

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

ARBITRATION PANEL

Receater Foskey Harris	-	Public Arbitrator, Presiding Chairperson
Carol A. Schuyler	-	Public Arbitrator, Panelist
Edward R. Hipp, III	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures


Rebecca Foskey Harris
Public Arbitrator, Presiding Chairperson

1-4-05
Signature Date

Carol A. Schuyler
Public Arbitrator, Panelist

Signature Date

Edward R. Hipp, III
Non-Public Arbitrator, Panelist

Signature Date

January 6, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Recester Foskey Harris
Public Arbitrator, Presiding Chairperson

Signature Date

Carol A. Schuyler
Carol A. Schuyler
Public Arbitrator, Panelist

1/6/06
Signature Date

Edward R. Hipp, III
Non-Public Arbitrator, Panelist

Signature Date

Samuel G. Coats
Date of Service (For NASD Dispute Resolution office use only)

Arbitration No. 05-01159

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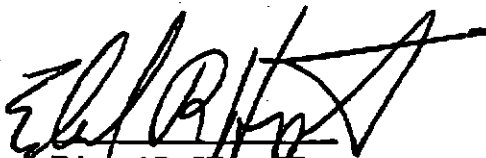
Concurring Arbitrators' Signatures

Receater Foskey Harris
Public Arbitrator, Presiding Chairperson

Signature Date

Carol A. Schuyler
Public Arbitrator, Panelist

Signature Date



Edward R. Hipp, III
Non-Public Arbitrator, Panelist



Signature Date

January 4, 2005
Date of Service (For NASD Dispute Resolution office use only)