

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Rudolph C. Baier

Case Number: 06-00872

Names of the Respondents
Ehrenkrantz King Nussbaum, Inc.
George Tamborello
Michael Sackstein
Anthony Ottimo
Thomas Giugliano

Hearing Site: Washington, D.C.

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

REPRESENTATION OF PARTIES

Rudolph C. Baier, hereinafter referred to as "Claimant", appeared pro se.

For Respondent Ehrenkrantz King Nussbaum, Inc. ("EKN"): Gabriel Iezzoni, Director of Compliance, EKN, Garden City, NJ.

Respondents George Tamborello ("Tamborello"), Michael Sackstein ("Sackstein"), Anthony Ottimo ("Ottimo"), and Thomas Giugliano ("Giugliano") appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2006.

Amended Statement of Claim filed on or about: June 8, 2006.

Claimant signed the Uniform Submission Agreement: February 17, 2006.

Statement of Answer filed by Respondent EKN on or about: May 10, 2006.

Respondent EKN signed the Uniform Submission Agreement: May 10, 2006.

Statement of Answer filed by Respondent Tamborello on or about: May 8, 2006.

Statement of Answer filed by Respondents Ottimo and Giugliano on or about: August 4, 2006.

Respondent Giugliano signed the Uniform Submission Agreement: August 4, 2006.

Respondent Sackstein did not file a Statement of Answer.

Respondent Sackstein signed the Uniform Submission Agreement: June 13, 2006.

Respondents Tamborello and Ottimo did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the cause of action of unauthorized trading and the attempted cover-up of the unauthorized activity. The cause of action relates to the sale and purchase of shares of PMC-Sierra Inc. stock in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$2,444.00, interest of \$35.00, reimbursement of fees paid to NASD Dispute Resolution, punitive damages of \$2,444.00, and the ability to transfer Claimant's account to another brokerage company without being charged a transfer fee by Respondent EKN.

Respondent EKN requested dismissal of the Statement of Claim.

Respondent Tamborello requested dismissal of the Statement of Claim.

Respondents Ottimo and Giugliano requested dismissal of the Statement of Claim and expungement of this matter from their respective Forms U-4.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 23, 2006, Claimant dismissed his claims against Respondent Sackstein.

On or about November 14, 2006, Claimant dismissed his claims against Respondents EKN, Ottimo, and Giugliano.

Respondent Tamborello did not appear at the evidentiary hearing. However, he called in and briefly spoke separately to both the undersigned arbitrator (the "Arbitrator") and Claimant during the hearing.

Respondents Tamborello and Ottimo did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Arbitrator on all issues submitted.

The party present at the hearing 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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Tamborello is liable for unauthorized trading and shall pay to Claimant compensatory damages in the sum of \$190.00 plus interest in the sum of \$402.00 representing interest at the rate of 6% per annum on the original amount of relief requested (\$2,444.00), accruing from October 17, 2003 through November 8, 2006 (the

date Claimant settled this matter with Respondent EKN and received partial recoupment of his claim in the amount of \$2,250.00).

Respondent Tamborello is liable and shall pay to Claimant punitive damages in the sum of \$1,200.00 based upon the blatant unauthorized transaction and untruthful responses to Claimant's informal demands.

Respondent Tamborello is liable and shall pay to Claimant the sum of \$50.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims 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	= \$50.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent EKN is a party and member firm.

Member surcharge	= \$200.00
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Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were 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:

No three-day cancellation fees were 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.

No injunctive relief fees were assessed during these proceedings.

Forum Fees and Assessments

The Arbitrator 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 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 @ \$125.00/session = \$125.00
Pre-hearing conference: August 8, 2006 1 session

One (1) Hearing session @ \$125.00/session = \$125.00
Hearing Date: December 5, 2006 1 session

Total Forum Fees = \$250.00

1. The Arbitrator has assessed the total forum fees of \$250.00 to Respondent Tamborello.

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.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 50.00
Total Fees	= \$ 50.00
Less payments	= \$ 50.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent EKN is solely liable for:

Member Fees	= \$200.00
Total Fees	= \$200.00
Less payments	= \$200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Tamborello is solely liable for:

Forum Fees	= \$250.00
Total Fees	= \$250.00
Less payments	= \$ 0.00
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

Edward M. Statland, Esq.

- Public Arbitrator

Arbitrator's Signature

/s/
Edward M. Statland, Esq.
Public Arbitrator

Signature Date

December 11, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATOR

Public Arbitrator

Edward M. Statland, Esq.

Arbitrator's Signature



Edward M. Statland, Esq.
Public Arbitrator

December 11, 2006

Signature Date

Date of Service (For NASD Dispute Resolution use only)