

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

First Southwest Company ("Claimant") vs. Joseph Roberts & Co., Joseph F. DeSanto and Robert DiMarco ("Respondents")

Case Number: 96-05603

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimant, First Southwest Company ("First Southwest") Cheryl Jerome Moore, Esq.: Arter & Hadden, Dallas, Texas.

Respondent, Joseph F. DeSanto ("DeSanto"): Gregg J. Breitbart, Esq., Kirkpatrick & Lockhart LLP, Miami, Florida.

Respondent, Robert DiMarco, ("DiMarco"): represented himself for the arbitration, and was also represented by Marvin L. Pickholtz for the limited purpose of seeking dismissal.

Respondent, Joseph Roberts & Co., ("Joseph Roberts") did not appear.

CASE INFORMATION

First Southwest Company's Statement of Answer, Cross claims and counterclaims filed on or about February 8, 1997. First Southwest Company's Statement of Amended Claims filed on or about May 22, 1999. First Southwest Company's Uniform Submission Agreement was executed on February 13, 1997.

The NASD has no record of Respondent Joseph Roberts & Co. filing an answer and uniform submission agreement.

Respondent DiMarco filed a Motion to Decline Arbitration and to Dismiss the Statement of claim on or about November 12, 1999. The NASD has no record of Respondent Robert DiMarco filing a Uniform Submission Agreement.

Respondent Joseph F. DeSanto filed an Answer on about November 19, 1997. The NASD has not record of Respondent DeSanto filing an answer or uniform submission agreement.

CASE SUMMARY

Claimant First Southwest Company brought Claims for breach of the Fully Disclosed Clearing Agreement entered into with Respondents. Specifically Claimant asserted that the activities and closure of Joseph Roberts & Co. and its former principals and control persons Joseph DeSanto and Robert DiMarco in October of 1996 and resulting devaluation of Joseph Robert's inventory at First Southwest, its clearing firm, precipitated debit balances in various Joseph Roberts accounts that cleared through First Southwest. Claimants alleged these debit balances and other problems caused Claimant to suffer damages. On November 15, 1999 Claimant's also asserted that Respondent DeSanto had defaulted on a Settlement agreement that arose out of its claims asserted in the arbitration.

Respondent Robert DiMarco moved for an order declining arbitration and dismissal of the Statement of Claim. Specifically DiMarco asserted that he had not agreed to participate in arbitration and that he was not named in the Clearing Agreement which forms the basis of Claimant's Claims against him.

Respondent DeSanto moved for dismissal from the arbitration. Specifically, he asserted that he was not a party to the Clearing Agreement which forms the basis of Claimant's Claims against him. DeSanto stated that Claimant can not recover for a breach of contract that he never signed and to which he was not a party.

RELIEF REQUESTED

Claimant First Southwest Company requested:

Compensatory Damages	\$11,000,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

Respondent Robert DiMarco requested:

Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	dismissal

Respondent Joseph DeSanto requested:

Other Costs	unspecified
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Other Monetary/Non-Monetary Relief: dismissal

OTHER ISSUES CONSIDERED AND DECIDED

This arbitration matter was originally brought by William Saunders against Respondents including First Southwest Company, Joseph Roberts & Co., Joseph DeSanto, Jared D'Argenio and John Curran. On or about December 5, 1997 the Claimant William Saunders dismissed his claim against First Southwest Company, John Curran and Joseph DeSanto. On or about December 5, 1997 First Southwest Company dismissed its Counterclaim against Claimant William Saunders. On or about December 5, 1997 Jared D'Argenio dismissed his Cross Claim against First Southwest Company and John Curran.

On December 5, 1997 all parties agreed and the single arbitrator ordered that this matter be transferred to a new three member panel of arbitrators for hearing in Dallas, Texas on First Southwest's Cross claim against Joseph DeSanto and Joseph Roberts & Co. As the primary customer case was resolved, and only the pending Cross Claim remained, First Southwest Company's Cross Claim was redesignated as a Statement of Claim. On or about May 22, 2000 the panel granted First Southwest Company's Motion to Join Respondent Robert DiMarco. First Southwest Company's Amended pleadings sought eleven million dollars (\$11,000,000.00) in damages against Joseph Roberts & Co., Joseph DeSanto and Robert DiMarco. First Southwest is herein referred to as Claimant, and Joseph Roberts & Co., Joseph DeSanto and Joseph DiMarco are referred to as Respondents.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators determined that Respondent Joseph Roberts & Co. has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Joseph Roberts & Co., Inc. did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitration Panel on all issues submitted.

Respondents Joseph F. DeSanto and Robert DiMarco did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, and are bound by the determination of the Arbitration Panel on all issues submitted.

Prior to the hearing Motions to Dismiss were filed by Respondents DeSanto and DiMarco. The Motions were briefed by the parties and the panel heard and considered and denied the Motions. At the beginning of the hearing on April 5, 2000 Respondent DiMarco appeared, read a Statement into the record and asked for Dismissal. He then left the hearing. The panel invited responses from all counsel and took his request under advisement to be carried with the case. At the hearing Respondent DeSanto also sought dismissal and asked for a directed verdict. The panel also took these requests under advisement to be carried with the case.

The parties present at the hearing 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, and the post-hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents' Joseph Robert & Co., Inc., Joseph F. DeSanto and Robert DiMarco are jointly and severally liable for and shall pay Claimant First Southwest Company compensatory damages in the amount of five million dollars (\$5,000,000.00);
2. That Respondents' Joseph Robert & Co., Inc., Joseph F. DeSanto and Robert DiMarco are jointly and severally liable for and shall pay Claimant First Southwest Company attorneys' fees in the amount of two hundred sixty six thousand three hundred fifteen dollars and nine cents (\$266,315.09) less offsets arising from other arbitration awards and or settlements. In making this award of attorneys' fee the panel reviewed and considered all pleadings, documents and briefs submitted by the parties, state and federal securities law, case law submitted in the post hearing briefs and oral argument put forth at the hearing and determined that support exists for the award of attorneys fees;
3. That any and all requests for relief not specifically awarded, including punitive damages, are hereby dismissed and denied in their entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial Claim filing fee (First Southwest Company)

= \$500.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firms is a party and the Respondent's firms the Respondent's former firms.

Member surcharge = \$200.00

Adjournment Fees

Adjournments requested during these proceedings:

May 10-13, 1999 adjournment by First Southwest Company = \$0
(The panel granted First Southwest Company's request for
waiver of this \$1,5000.00 fee)
December 6-10, 1999, adjournment charged to Joseph DeSanto = \$1,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 session with a single arbitrator x \$300.00 = \$300.00
Pre-hearing conference: November 26, 1997 1 session

Two (2) Hearing sessions x \$1,500.00 = \$3,000.00
Hearing Dates: April 5, 2000 2 sessions

Total Forum Fees = \$3,300.00

1. The Arbitration Panel has assessed \$3,300.00 of the forum fees to First Southwest Company.

Fee Summary

1. Claimant, First Southwest Company, be and hereby is solely liable for:

Initial Filing Fee	= \$500.00
Member Fees	= \$200.00
Adjournment Fee	= 0
Forum Fees	= \$3,300.00
Administrative Costs	= \$0
<u>Total Fees</u>	<u>= \$4,000.00</u>

	= \$1,300.00
<u>Less payments</u>	<u>= \$2,700.00</u>
Balance Due NASD Regulation, Inc.	

2. Respondent, Joseph DeSanto, be and hereby is solely liable for:

Adjournment Fee	= \$1,500.00
Administrative Costs	= \$0
Total Fees	= \$1,500.00
<u>Less payments</u>	<u>= \$0</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

 Russell E. Rains
 Public Arbitrator, Presiding Chair

 Signature Date

Ann Blaess Kimball
 Ann Blaess Kimball, Esq.
 Public Arbitrator

June 30, 2000
 Signature Date

 Jack C. Payne
 Industry Arbitrator

 Signature Date

Less payments	= \$1,300.00
Balance Due NASD Regulation, Inc.	= \$2,700.00

2. Respondent, Joseph DeSanto, be and hereby is solely liable for:

Adjournment Fee	= \$1,500.00
Administrative Costs	= \$0
Total Fees	= \$1,500.00
Less payments	= \$0
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due to NASD Regulation, Inc.

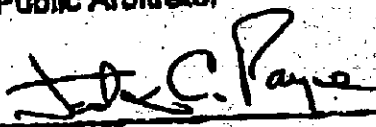
Concurring Arbitrators' Signatures

Russell E. Raina
Public Arbitrator, Presiding Chair

Signature Date

Ann Blaess Kimball, Esq.
Public Arbitrator

Signature Date



Jack C. Payne
Industry Arbitrator

6-30-00

Signature Date

2. Respondent, Joseph DeSanto, be and hereby is solely liable for:

Adjourment Fee	= \$1,600.00
Administrative Costs	= \$0
Total Fees	= \$1,500.00
Less Payments	= \$0
Balance Due NASD Regulation, Inc.	= \$1,500.00

~~Consenting Arbitrators' Signatures~~

22 June 2000
Signature Date

Signature Date

Signature Date