

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Manouchehr Malek, Claimant v. Pellet Investments, Inc., Ronald N. Pellet, Kenneth R. Kadan, Neil D. Silver and Edwin Dogobert Bransome, III, Respondents

Case Number: 97-01498

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Manouchehr Malek
Corona Del Mar, California

For Respondents Pellet Investments, Inc. and:
Ronald N. Pellet

Ronald N. Pellet
Pellet Investments, Inc.
Missoula, Montana

For Respondent Kenneth R. Kadan:

Kenneth R. Kadan
Irvine, California

For Respondent Neil D. Silver:

Neil D. Silver
Aventura, Florida

For Respondent Edwin Dogobert Bransome, III:

Edwin Dogobert Bransome, III
Laguna Hills, California

CASE INFORMATION

Statement of Claim filed: March 25, 1997

Claimant's Uniform Submission Agreement signed: February 11, 1997

Joint Statement of Answer of Respondents Pellet Investments, Inc., Ronald N. Pellet, Kenneth R. Kadan and Neil D. Silver filed: June 25, 1997

CASE SUMMARY

Claimant alleged the following claims with respect to investments in various securities, including but not limited to, investments in Connecting Point, Crush Innovative Sports Systems and Peabody's Coffee, Inc.: 1) Lack of Suitability; 2) Breach of Fiduciary Duty;

3) Failure to Supervise; 4) Misrepresentations and Omissions; and 5) Punitive Damages.

Respondents Pellet Investments, Inc., Ronald N. Pellet, Kenneth R. Kadan and Neil D. Silver denied Claimant's allegations of wrongdoing, denied any liability to Claimant and also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Out-of-pocket losses in the amount of at least \$750,000.00;
2. Commission charges and mark ups;
3. Pre and post judgment interest at the highest legal rate;
4. Punitive damages in the amount of \$2,000,000.00;
5. Costs;
6. Attorney's fees; and
7. Such other and further relief as the Panel deems just and proper.

Respondents Pellet Investments, Inc., Ronald N. Pellet, Kenneth R. Kadan and Neil D. Silver requested that all claims be declared ineligible for arbitration and otherwise be dismissed with costs assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Edwin Dogobert Bransome, III did not file with NASD Dispute Resolution ("NASD-DR") a Statement of Answer or properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and is bound by the determination of the Panel on all issues submitted.

Respondents Pellet Investments, Inc., Ronald N. Pellet, Kenneth R. Kadan and Neil D. Silver did not file with NASD-DR properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered Claimant's Claim, are bound by the determination of the Panel on all issues submitted.

The Panel agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

FINDINGS

Upon review of the file, the Panel determined that NASD-DR had endeavored suitably to effectuate service of documents upon Claimant, who did not keep NASD-DR properly informed of his current mailing address. The Panel determined that NASD-DR served Claimant appropriately at his last known address with the Panel's Order issued on or about August 19, 2005. Said Order required the parties to show cause by September 30, 2005, why the above-referenced dispute should not be dismissed.

After reviewing the pleadings and lack of response by Claimant or Respondents to the Order issued on or about August 19, 2005, the Panel has dismissed Claimant's claims with prejudice.

AWARD

After considering the pleadings and lack of response by Claimant or Respondents to the Order issued on or about August 19, 2005, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed with prejudice as a result of Claimant's failure to prosecute his claims.
2. Each party shall bear its own costs, including attorney's fees.
3. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$250.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Pellet Investments, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$500.00
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Adjournment Fees

The following adjournment fees are assessed:

The Panel granted Claimant's request to postpone the September 14–18, 1998, hearing dates and assessed Claimant the \$1,000.00 postponement fee.

The Panel granted Claimant's request to postpone the November 2-5, 1999, hearing dates and assessed Claimant the \$1,000.00 postponement fee.

Forum Fees and Assessments

The Panel 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:

(1) Pre-hearing conference session with a single arbitrator
@ \$300.00/session = \$300.00

Pre-hearing conference: December 17, 1998 1 session

(5) Pre-hearing conference sessions with the Panel
@ \$1,000.00/session = \$5,000.00

Pre-hearing conferences: January 21, 1998 1 session
September 8, 1998 1 session
December 15, 1998 1 session
September 13, 1999 1 session
August 19, 2005 1 session

(3) Hearing sessions @ \$1,000.00/session = \$3,000.00

Hearing Dates: February 15, 1999 2 sessions
February 16, 1999 1 session

Total Forum Fees = \$8,300.00

The Panel assessed \$3,650.00 in forum fees to Claimant Manouchehr Malek.

The Panel assessed \$3,650.00 in forum fees jointly and severally to Respondents Pellet Investments, Inc. and Ronald N. Pellet.

The Panel waived the \$1,000.00 forum fee in connection with the pre-hearing conference held August 19, 2005.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent Pellet Investments, Inc. requested photocopies
totaling \$13.00 = \$ 13.00

Fee Summary

1. Claimant Manouchehr Malek is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Adjournment Fees	= \$ 2,000.00
Forum Fees	= \$ 3,650.00
Total Fees	= \$ 5,900.00
Less Payments	= \$(1,250.00)
Balance Due NASD-DR	= \$ 4,650.00

2. Respondent Pellet Investments, Inc. is charged with the following fees and costs:

Administrative Costs	= \$ 13.00
Member Fees	= \$ 500.00
Total Fees	= \$ 513.00
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 513.00

3. Respondents Pellet Investments, Inc. and Ronald N. Pellet are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 3,650.00
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 3,650.00

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

David J. Anderson -
Royal D. Heisser -
Dawn M. Kirchner, CFP -

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


David J. Anderson
Chair, Public Arbitrator

9/22/06
Signature Date

Royal D. Heisser
Public Arbitrator

Signature Date

Dawn M. Kirchner, CFP
Non-Public Arbitrator

Signature Date

9/22/06
Date of Service

ARBITRATION PANEL

David J. Anderson	-	Public Arbitrator, Presiding Chair
Royal D. Heisser	-	Public Arbitrator
Dawn M. Kirchner, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

David J. Anderson
Chair, Public Arbitrator

Signature Date

Royal D. Heisser

Royal D. Heisser
Public Arbitrator

9-20-2006

Signature Date

Dawn M. Kirchner, CFP
Non-Public Arbitrator

Signature Date

9/22/06

Date of Service

ARBITRATION PANEL

David J. Anderson	-	Public Arbitrator, Presiding Chair
Royal D. Heisser	-	Public Arbitrator
Dawn M. Kirchner, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

David J. Anderson
Chair, Public Arbitrator

Signature Date

Royal D. Heisser
Public Arbitrator

Signature Date



Dawn M. Kirchner, CFP
Non-Public Arbitrator

19 Sept 2006
Signature Date

9/22/06
Date of Service