

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Thomas A. Deleasa (Claimant) vs. The Harriman Group, Inc., Bernice Levine Lerner,
Mark A. Hanna, Brian D. Scanlon, and Joseph M. Giannuzzi, (Respondents).

Case Number: 98-00273

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

For Claimant Thomas A. Deleasa "Claimant": George L. Mahr, Esq., Madison, New Jersey.

Respondent The Harriman Group, Inc., ("Harriman") did not enter an appearance in this matter.

Respondent Bernice Levine Lerner ("Lerner") appeared *pro se*.

Mark A. Hanna ("Hanna") did not enter an appearance in this matter.

Brian D. Scanlon ("Scanlon") did not enter an appearance in this matter.

For Joseph M. Giannuzzi ("Giannuzzi"): Micheal P. Gilmore, Esq., Wexler & Burkhart, P.C.,
Mitchel Field, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 14, 1998.

Claimant signed the Uniform Submission Agreement: January 13, 1998.

Harriman did not file a properly executed Statement of Answer or a properly executed Uniform Submission Agreement.

Statement of Answer and Motion to Dismiss filed by Lerner on or about: July 17, 1998.

Lerner did not file a properly executed Uniform Submission Agreement.

Hanna did not file a properly executed Statement of Answer or a properly executed Uniform Submission Agreement.

Scanlon did not file a properly executed Statement of Answer or a properly executed Uniform Submission Agreement.

Statement of Answer filed by Giannuzzi on or about: May 19, 1998.

Giannuzzi signed the Uniform Submission Agreement: April 20, 1998.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; misrepresentation; omission; unauthorized trading; failure to supervise and use due care; breach of fiduciary duty; violation of the rules of the New York Stock Exchange and the NASD.

Giannuzzi denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim failed to state a cause of action; Claimants claim is barred by the applicable principles of waiver, ratification, laches, estoppel, and the statute of limitations, and failure to mitigate.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$400,00.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Costs	unspecified

Giannuzzi requested that the Panel dismiss the Statement of Claim and award costs, expenses, and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondents Harriman and Hanna have 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 Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Harriman, Hanna, and Lerner did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code. Lerner, having answered the claim, is bound by the determination of the Panel on all issues submitted. Harriman and Hanna are bound by the determination of the Panel on all issues submitted.

The Panel was advised that Respondent Scanlon filed Notice of Bankruptcy in the United States Bankruptcy Court. Pursuant to these filings, all matters concerning this party are indefinitely stayed.

Respondent Giannuzzi entered into a stipulation of settlement with Claimant on the record, during the hearing.

The Panel hereby grants Respondent Lerner's Motion to Dismiss.

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. Harriman and Hanna are hereby jointly and severally liable and shall pay Claimant the amount of 95,506.00 in compensatory damages plus pre-judgment interest at the rate of 9% accruing from September 17, 1997, until September 8, 1999.
2. Harriman and Hanna are hereby jointly and severally liable and shall pay Claimant the amount of \$10,000.00 in attorney's fees. Pursuant to the oral arguments presented by Claimant in its summation, the Panel awarded attorney's fees.
3. All other requests are hereby denied

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	=	\$ 250.00
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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 that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	=	\$1,500.00
Pre-hearing process fee	=	\$ 600.00
Hearing process fee	=	\$2,500.00

Forum Fees and Assessments

The Panel assessed 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 Panel x \$750.00 = \$750.00
Pre-hearing conference: December 2, 1998 1 session

One (1) Hearing session x \$750.00 = \$750.00
Hearing Date: September 8, 1999 1 session

Total Forum Fees = \$1,500.00

1. The Panel has assessed \$500.00 of the forum fees against Claimant.
2. The Panel has assessed \$500.00 of the forum fees against Harriman.
3. The Panel has assessed \$500.00 of the forum fees against Hanna.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	=	\$ 200.00
<u>Forum Fees</u>	=	<u>\$ 500.00</u>
Total Fees	=	\$ 700.00
<u>Less payments</u>	=	<u>\$ 950.00</u>
The NASD Regulation, Inc. shall refund Claimant	=	\$ 250.00

2. Respondent Harriman be and hereby is solely liable for:

Member Fees	=	\$4,600.00
Total Fees	=	\$4,600.00
<u>Less payments</u>	=	<u>\$2,100.00</u>
Balance Due NASD Regulation, Inc.	=	\$2,500.00

3. Respondents Harriman and Hanna be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	=	<u>\$1,000.00</u>
Balance Due NASD Regulation, Inc.	=	\$1,000.00

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to article 7505 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Diane Ciccone, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Cynthia Plishtin
Public Arbitrator

Signature Date

E. Stephen Walsh
E. Stephen Walsh, Esq.
Industry Arbitrator

9/13/99
Signature Date

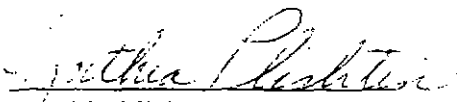
September 23, 1999
Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

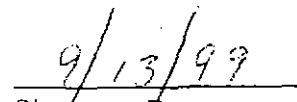
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Diane Ciccone, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Cynthia Plishtin
Public Arbitrator



Signature Date

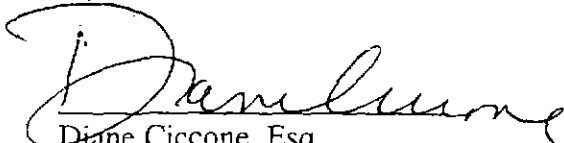
E. Stephen Walsh, Esq.
Industry Arbitrator

Signature Date

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Public Arbitrator

Signature Date

E. Stephen Walsh, Esq.
Industry Arbitrator

Signature Date

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