

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

Comprehensive Capital Corporation

vs.

Case No.
98-00471

Name of Respondents

Brian F. Schantz
Edward P. Flynn

vs.

Name of Third-party Respondents

Steven Kevorkian
Olga Scoppa
Deborah Kevorkian
Melanie Shadler

REPRESENTATION

For Claimant Comprehensive Capital Corporation ("Claimant") and Third-Party Respondents Steven Kevorkian ("Kevorkian"), Olga Scoppa ("Scoppa"), Deborah Kevorkian ("D.Kevorkian"), and Melanie Shadler ("Shadler") appeared Harold I. Geringer, Esq. of the firm Geringer & Dolan, located in New York, New York.

For Respondents Brian F. Schantz ("Schantz") and Edward P. Flynn ("Flynn") (collectively "Respondents") appeared Dan A. Druz, Esq., a sole practitioner located in Manasquan, New Jersey.

CASE INFORMATION

Claimant's Statement of Claim was filed on February 6, 1998.

Claimant's Submission Agreement was signed on February 2, 1998.

Claimant's Reply to Counterclaims included in Respondents First Amended Answer and Third-Party Claims was filed on May 27, 1998.

Claimant's Reply to Counterclaims included in Respondents' Second Amended Answer and

Third-Party Claims was filed on July 16, 1998.

Respondent Schantz and Flynn's Statement of Answer was filed on April 3, 1998.

Respondent Schantz and Flynn's First Amended Answer and Third-Party Claims was filed on May 4, 1998.

Respondent Schantz and Flynn's Second Amended Answer and Third-Party Claims was filed on June 1, 1998.

Respondent Schantz's Submission Agreement was signed on March 30, 1998.

Respondent Flynn's Submission Agreement was signed on March 30, 1998.

Respondent Schantz's Amended Submission Agreement was signed on May 28, 1998.

Respondent Flynn's Amended Submission Agreement was signed on May 28, 1998.

Third-Party Respondents Kevorkian's and Scoppa's Joint Statement of Answer to the Third-Party Claims was filed on June 2, 1998.

Third-Party Respondents Kevorkian's, Scoppa's D.Kevorkian's, and Shadler's Joint Third-Party Statement of Answer was filed on July 16, 1998.

Third-Party Respondent Kevorkian's Submission Agreement was signed on May 28, 1998.

Third-Party Respondent Scoppa's Submission Agreement was signed on May 28, 1998.

Third-Party Respondent Deborah Kevorkian did not file a Submission Agreement.

Third-Party Respondent Melanie Shadler did not file a Submission Agreement.

HEARING INFORMATION

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|-------------------------|-----------------|---|-----------|
| Pre-Hearing Conference: | August 11, 1998 | - | 1 session |
|-------------------------|-----------------|---|-----------|

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|-------------------------|------------------|---|------------|
| Hearing Dates/Sessions: | December 1, 1998 | - | 2 sessions |
|-------------------------|------------------|---|------------|

The pre-hearing conference was conducted telephonically. The hearing was conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that, pursuant to the terms of Flynn's employment agreement entered into on January 30, 1997, Flynn agreed to repay his \$25,000.00 loan. Claimant alleged that, pursuant to the terms of Schantz's employment agreement entered on February 21, 1997, Schantz agreed to repay his \$25,000.00 loan. Claimant alleged that, in accordance with the terms of the both agreements, and as evidenced by a Promissory Note signed by each Respondent, the loan would be forgiven if the Respondents generated \$300,000.00 in gross commission credit. Claimant contended that, in accordance with the terms of both employment agreements, the loans would come due immediately upon the termination of their employment or if they failed to generate the required gross commission credits. Claimant maintained that Respondents resigned on January 20, 1998 and each refused to repay the loans upon Claimant's demand. Claimant asserted that, because both Respondents failed to generate the requisite commission credits and ceased working prior to the completion of one year, they have breached their respective agreements. Claimant also maintained that, pursuant to the terms and conditions of his agreement, Flynn agreed to

guarantee payment of Schantz's loan in the event that Claimant was unable to collect the loan directly from Schantz.

Respondents Flynn and Schantz maintained that the obligations to repay their loans never matured because Claimant failed to satisfy the conditions precedent inherent in their agreements as well as in their employer-employee relationship. Respondents alleged that, among other improprieties, Claimant failed to provide a suitable working environment, improperly sold out Respondents' stock positions without authorization, and allowed unlicensed individuals to operate the stock trading desk. Respondents maintained that, as a result of Claimant's actions, they are fully discharged from their obligations under their agreements.

Respondent Schantz contended that Claimant failed to protect his rights as a result of his continued complaints of harassment by Shadler, an employee of Claimant. Schantz asserted that he was required to terminate his employment with Claimant based on these complaints. Respondents contended that Claimant is liable for commissions due to them while they were employed by Claimant. Respondents alleged that Claimant prevented them from earning the level of income which had been generated in previous years of employment in the securities industry. Respondents also alleged that, as a result of the false and fraudulent representations Claimant made to induce them to enter into their agreements, they are entitled to an award.

Claimant generally denied the allegations contained in Respondents' Counterclaims.

RELIEF REQUESTED

Claimant requested the sum of \$25,000.00, together with interest accruing from January 20, 1998, from Respondent Flynn. Claimant requested the sum of \$25,000.00, together with interest accruing from January 20, 1998, from Respondent Schantz or, alternatively, the sum of \$25,00.00, together with interest accruing from January 20, 1998, from Flynn as guarantor of the loan extended by Claimant to Schantz. Claimant also requested attorneys' fees and costs.

Respondents Flynn and Schantz requested that Claimant's Statement of Claim be dismissed in its entirety. Flynn also requested the amount of \$100,000.00 in compensatory damages, and \$4,000.00 in compensatory damages for commissions due against Claimant. Respondent Schantz requested the amount of \$100,000.00 in compensatory damages, and \$5,000.00 for commissions due against Claimant. Respondents additionally sought indemnity and/or contribution from Third-Party Respondents if Claimant recovers against Respondents.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with NASD Regulation, Inc.

On July 16, 1998, the panel dismissed all claims against Third-Party Respondents Steven Kevorkian, Olga Scoppa, Deborah Kevorkian, and Melanie Shadler. The Panel found that the Third-Party Respondents were not proper parties to the arbitration.

AWARD

After considering the pleadings, the testimony and the evidence presented, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Flynn and Schantz are jointly and severally liable and shall pay Claimant the total of \$22,500.00 towards Schantz's promissory note because Flynn guaranteed it;
2. Respondent Flynn is liable and shall pay Claimant the total of \$22,500.00 towards his promissory note;
3. Respondents are jointly and severally liable and shall pay Claimant post-judgment interest beginning from the date of the award until payment of the award;
4. Respondents are jointly and severally liable for \$5,000.00 for Claimant's attorneys' fees based upon the promissory note between the parties;
5. Respondents shall reimburse Claimant the sum of \$600.00 for the hearing session deposit previously paid to NASD Regulation, Inc.; and
6. All other claims for relief are hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Claimant has paid NASD Regulation, Inc. the \$800.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10205(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$500.00 non-refundable filing fees paid by Claimant and the \$500.00 non-refundable filing fee paid by Respondents and have assessed the following Forum Fees:

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|--|---|------------|
| 1 Pre-Hearing Conference at \$750.00 per session | - | \$ 750.00 |
| 2 Hearing Sessions at \$750.00 per session | - | \$1,500.00 |
| Total Forum Fees | - | \$2,250.00 |

Respondents be and hereby are jointly and severally liable for the sum of \$2,250.00, representing the total amount of forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation, Inc. and Flynn and Schantz previously jointly deposited \$1,500.00 with NASD Regulation, Inc. Therefore, Respondents shall pay the remaining balance of \$150.00 to NASD Regulation, Inc. and reimburse Claimant the \$600.00 hearing deposit as stated in the "Award" section above.

ARBITRATION PANEL

| | | |
|-----------------------------|---|---------------------|
| Karimu F. Hill-Harvey, Esq. | - | Public Chairperson |
| Robert H. Phillips, CPA | - | Public Arbitrator |
| Joseph D. Cosgrove, Esq. | - | Industry Arbitrator |

CONCURRING ARBITRATOR'S SIGNATURE



Karimu F. Hill-Harvey, Esq.
Chairperson Public Arbitrator

Date of decision: January 25, 1999

I, Karimu F. Hill-Harvey, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

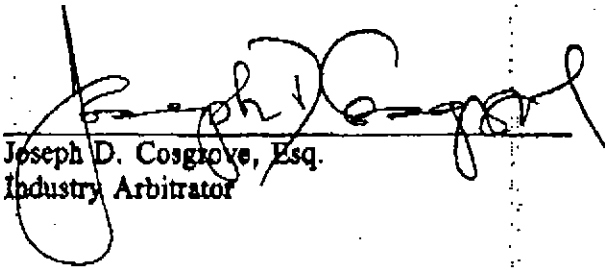


Karimu F. Hill-Harvey, Esq.

ARBITRATION PANEL

| | | |
|-----------------------------|---|---------------------|
| Karimu F. Hill-Harvey, Esq. | - | Public Chairperson |
| Robert H. Phillips, CPA | - | Public Arbitrator |
| Joseph D. Cosgrove, Esq. | - | Industry Arbitrator |

CONCURRING ARBITRATOR'S SIGNATURE



Joseph D. Cosgrove, Esq.
Industry Arbitrator

Date of decision: January 25, 1999

I, Joseph D. Cosgrove, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Joseph D. Cosgrove, Esq.