

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Harry A. Flathmann, Claimant v. J. Alexander Securities, Inc. Blaine Reilly, III, and James Alexander, Respondents.

Case Number: 99-00939

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Ryan K. Bakhtiari, Esq.
Aidikoff and Uhl
Beverly Hills, California

Michael Huberman, Esq.
Michael Huberman &
Associates
La Quinta, California

For Respondents . J. Alexander Securities, Inc.
and James Alexander:

David L. Kagel, Esq.
John Torbett, Esq.
Law Offices of
David L. Kagel
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 23, 1999

Amended Statement of Claim filed: August 25, 1999

Claimant's Uniform Submission Agreement signed: February 18, 1999

Statement of Answer filed by Respondent, J. Alexander Securities, Inc.: May 3, 1999

Respondent's Uniform Submission Agreement signed: May 3, 1999

CASE SUMMARY

Claimant, in his Amended Statement of Claim, alleged the following causes of action: violation of federal securities laws, unauthorized trading, and breach of fiduciary duty.

Respondent J. Alexander Securities, Inc. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent James Alexander did not file an answer.

RELIEF REQUESTED

Claimant requested: \$24,000.00 in compensatory damages, interest, costs, and attorney's fees.

Respondent J. Alexander Securities, Inc. requested: dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On August 12, 1999, Respondent, Blaine Riley, III, provided the NASD Regulation, Inc. Office of Dispute Resolution with a copy his April 24, 1998 Discharge of Debtor by the United States Bankruptcy Court, Central District of California. The arbitration proceeding was stayed as against Respondent Blaine Riley, III.

On August 24, 1999 Claimant's Motion to Amend the Statement of Claim was granted, adding James Alexander as a Respondent.

Respondent James Alexander did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed Uniform Submission Agreement to arbitrate. At the time of the hearing, James Alexander did appear and on the record agreed to submit this dispute to arbitration.

The parties have agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, and the evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents J. Alexander Securities, Inc. and James Alexander are jointly and severally liable to and shall pay Claimant the sum of \$14,282.00 in compensatory damages.
- 2) Respondents J. Alexander Securities, Inc. and James Alexander are jointly and severally liable to and shall pay Claimant the sum of \$5,556.00 in interest for the time period of March 1, 1996 to January 20, 2000.
- 3) Respondents J. Alexander Securities, Inc. and James Alexander are jointly and severally liable to and shall pay Claimant the sum of \$10,000.00 in exemplary damages pursuant to California Civil Code §3294.
- 4) Respondents J. Alexander Securities, Inc. and James Alexander are jointly and severally liable to and shall pay Claimant \$75.00 in reimbursement of the filing fee.
- 5) Respondents J. Alexander Securities, Inc. and James Alexander are jointly and severally liable to and shall pay Claimant \$10.00 in reimbursement of the administrative costs.
- 6) Each party shall bear its own attorney's fees.
- 7) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 75.00
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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 event of the dispute. Accordingly, the member firm J. Alexander Securities, Inc. is a party and the following fee is assessed:

Member Surcharge	= \$ 400.00
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Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrator. The following fees are assessed:

(2) Pre-hearing conference sessions with a single arbitrator @ \$ 300.00/session = \$ 600.00

Pre-hearing conferences: August 24, 1999 1 session
December 22, 1999 1 session

(4) Hearing sessions @ \$300.00/session = \$ 1,200.00

Hearings:	January 18, 2000	2 sessions
	January 20, 2000	2 sessions

Total Forum Fees = \$ 1,800.00

The Arbitrator has assessed \$1,800.00 of the forum fees jointly and severally to Respondents J. Alexander Securities, Inc. and James Alexander.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested 10 photocopies @ \$1.00/page: = \$10.00

Fee Summary

1. Claimant, Harry A. Flathmann, is charged with the following fees and costs:

Initial Filing Fee = \$ 75.00

Administrative Costs = \$ 10.00

Total Fees = \$ 85.00

Less payments = \$(375.00)

Refund Due Claimant = \$ 290.00

2. Respondent, J. Alexander Securities, Inc., is charged with the following fees and costs:

Member Fees = \$ 400.00

Less payments _____ = \$(400.00)

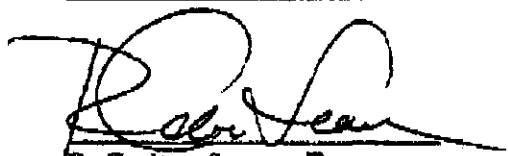
Balance Due NASD Regulation, Inc.	= \$ 0.00
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3. Respondents, *J. Alexander Securities, Inc.* and James Alexander, are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$1,800.00
Balance Due NASD Regulation, Inc.	= \$1,800.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

Arbitrator's Signature

A handwritten signature in black ink, appearing to read "R. Carlton Seaver", written over a horizontal line.

R. Carlton Seaver, Esq.
Chair, Public Arbitrator

January 21, 2000
Signature Date

January 21, 2000
Date of Service