
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Joel Withrow

Case Number: 99-00992

Name of the Respondent

Madison Capital Markets Corporation,
Antonio Raimo, Robert F. Ryder, Jr.,
Lawrence A. Zelin, Michael Lee Metter, and
Dalton Kent Securities Group, Inc.

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant Joel Withrow hereinafter referred to as "Claimant": Reagan D. Pratt, Esq., Clements, O'Neil, Pierce & Nickens located in Houston, Texas.

Respondents, Madison Capital, Markets Corp., ("Madison") Antonio Raimo ("Raimo"), Respondent Robert F. Ryder Jr. ("Ryder"), initially represented by Bruce Alpert, Esq. of Squadron, Ellenoff, Plesent & Sheinfeld, L.L.P., located in New York, New York did not appear at the hearing.

Respondent Michael Metter ("Metter") was *pro se* and did not appear at the hearing.

Respondent Dalton Kent Securities Group, Inc., ("Dalton Kent") initially represented by Richard J. Babnick, Esq., of Dalton Kent Securities Group, Inc. located in New York, New York did not appear at the hearing.

Respondent Lawrence A. Zelin ("Zelin") initially represented by John C. Allen, Esq. located in Houston, Texas did not appear at the hearing.

CASE INFORMATION

Claim filed the Statement of Claim on: March 31, 1999.

Claimant, signed the Uniform Submission Agreement: March 1, 1999.

Claimant filed the Amended Statement of Claim on June 28, 2000.

Joint Statement of Answer filed by Respondents Madison, Raimo, and Ryder on or about: May 20, 1999.

Respondent Madison signed a Uniform Submission Agreement: May 18, 1999.

Respondent Metter filed a Statement of Answer to the Amended Statement of Claim on August 4, 2000.

Respondent Zelin filed a Statement of Answer to the Amended Statement of Claim on November 29, 2000.

Respondent Zelin signed a Uniform Submission Agreement: May 31, 2000.

Respondent Dalton Kent filed a Statement of Answer to the Amended Statement of Claim on September 20, 2000.

Respondent Dalton Kent signed a Uniform Submission Agreement on August 11, 2000.

Respondent Dalton Kent filed a Motion to Dismiss on August 22, 2000.
Claimant filed a response to the Motion to Dismiss on October 4, 2000.
Respondent Dalton Kent filed a reply to the Motion to Dismiss on October 13, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitable trading; gross and unlawful churning; failure to supervise; breach of fiduciary duty; excess markups and other violations of the 1934 Securities Exchange Act (including sections 9 and 10 thereof); Violation of Rule 10B5; violations of the Securities Exchange Act of 1933; and, violations of the Texas Blue Sky Act.

On or about June 23, Claimant filed a first Amended Statement of Claim in which he asserted the following causes of action: failure to supervise; breach of fiduciary duty; fraud in a stock transaction under the Texas Business & Commercial Code section 27.01; and breach of contract. In addition, Claimant amended compensatory damage amount to \$250,000.00 against each Respondent jointly and severally.

Unless specifically admitted in its Answer, Dalton Kent denied the allegations made in the Statement of Claim and the Amended Statement of Claim and asserted the following defenses: waiver, estoppel, equitable estoppel, ratification, failure to state a claim upon which relief can be granted, good faith, assumption of the risk, failure to mitigate.

Unless specifically admitted in their Answer, Madison Capital, Raimo and Ryder denied the allegations in the Statement of Claim and submitted the following affirmative defenses: Scienter; decline in value was caused by conditions outside the control of Respondents; good faith; suitability; and failure to mitigate.

Unless specially admitted in his Answer Lawrence Zelin denied the allegations made in the Amended Statement of Claim and asserted the following defenses: no factual basis for fraud; lack of fiduciary duty; Claimant is a sophisticated investor; Claimant has failed to state a claim; ratification.

Unless specially admitted in his Answer Metter denied the allegations made in the Amended Statement of Claim and asserted the following defenses: no factual basis exists for the allegation of fraud; lack of fiduciary duty; Claimant is a sophisticated investor; Claimant has failed to state a claim; ratification, waiver and estoppel.

RELIEF REQUESTED

Claimant requested: (Statement of Claim):

Compensatory Damages	\$ 300,000.00
Punitive Damages	\$1,500,000.00
Interest	\$ 10% per annum
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified
Other Monetary/Non-Monetary Relief if any:	\$ 120,000.00 Illegal and excess Commissions

Claimant requested:(Amended Claim)

Compensatory Damages	\$ 250,000.00
Punitive Damages	\$1,500,000.00
Interest	\$ 10% per annum
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified
Other Monetary/Non-Monetary Relief if any:	Rescission of all transactions entered into at Madison and all commissions and expenses paid to Madison.

Respondents requested: That the Claims against them be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

1. On April 14, 2001 Respondent Michael Metter filed Chapter VII Bankruptcy.
2. On December 12, 2000 the Panel denied Dalton Kent's Motion to Dismiss.
3. On or About June 19, 2000 Claimant entered into a settlement agreement with Robert F. Ryder, Jr. consequently the claims filed against him were not adjudicated;
4. Respondents Madison, Ramio, Zelin and Dalton Kent did not appear at the hearing. Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators determined these Respondents had 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").
5. Respondent Antonio Ramio, and did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all Issues decided herein.
6. On June 28, 2000, Claimant amended his Statement of Claim. Claimant lowered his total damage amount by excluding the \$120,000.00, claim for illegal commissions and lowering his actual damages from 300,000.00 to 250, 000.00.

AWARD

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

1. Respondents Antonio Raimo, Madison Capital Markets Corporation, Lawrence A. Zelin, and Dalton Kent Securities Group, Inc., are jointly and severally liable and shall pay to Claimant Joel Withrow the sum of \$182,914.50 (one hundred eighty two thousand nine hundred and fourteen dollars and fifty cents) including 10% interest which shall begin to accrue on October 30,1998 and shall cease to accrue when the award is paid in full;
2. Respondents Antonio Raimo, Madison Capital Markets Corporation, Lawrence A. Zelin, and Dalton Kent Securities Group, Inc., are jointly and severally liable for and shall pay to Claimant Joel Withrow the sum of \$90,000.00 (ninety thousand dollars) in attorneys' fees. The authority for the award of attorneys fees is, Texas Civil Practice And Remedies Code section 38.001;

3. Except as otherwise specified herein, each party shall pay their own costs and attorneys' fees; and,
4. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$250.00

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. Accordingly, Madison Capital Markets Corporation is the Respondent member firm.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

Adjournment requested for June 20, -June 23, 2000 by Madison Capital = \$1000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Six (6) Pre-hearing sessions with a single arbitrator @ \$300.00 = \$ 1,800.00

Pre-hearing conferences:	May 2, 2000	1 session
	June 19, 2000	1 session
	September 7, 2000	1 session
	January 12, 2001	1 session
	January 24, 2001	1 session
	March 28, 2001	1 session

Two (2) Pre-hearing sessions with Panel @ \$1,000.00 = \$ 2,000.00

Pre-hearing conferences:	October 26, 1999	1 session
	January 22, 2002	1 session

Two (2) Hearing sessions @ \$1000.00 = \$ 2,000.00

Hearing Dates:	July 8, 2002	2 sessions
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Total Forum Fees = \$5,800.00

The Panel has assessed \$5,800.00 of the forum fees to jointly and severally to Respondents Madison Capital Corporation, Antonio Raimo, Dalton Kent Securities Group Inc., and Lawrence A. Zelin.

Fee Summary

1. Claimant Joel Withrow is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 250.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 00

3. Respondent Madison Capital Markets Corporation is solely liable for:

<u>Member Fees</u>	= \$ 7600.00
<u>Adjournment Fee</u>	= \$ 1,000.00
<u>Total Fees</u>	= \$ 8,600.00
<u>Less payments</u>	= \$ 1,577.46
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,022.54

4. Respondents Antonio Ramio, Madison Capital Markets Corporation, Lawrence A. Zelin, and Dalton Kent Securities Group, Inc., are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 6,700.00
<u>Total Fees</u>	= \$ 7,700.00
<u>Less Payments</u>	= \$ 1,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,700.00

5. Respondent Dalton Kent Securities Group, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 7,600.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 600.00

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

ARBITRATION PANEL

Raymond C. Kerr, Esq.
Charles A. Joplin, Esq.
Bernard D. Hammer

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

Raymond C. Kerr, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Charles A. Joplin, Esq.
Public Arbitrator

Signature Date

Bernard D. Hammer
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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The Panel has assessed \$5,800.00 of the forum fees to jointly and severally to Respondents Madison Capital Corporation, Antonio Raimo, Dalton Kent Securities Group Inc., and Lawrence A. Zelin.

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<u>Total Fees</u>	= \$ 7,700.00
<u>Less Payments</u>	= \$ 1,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,700.00

5. Respondent Dalton Kent Securities Group, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 7,600.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 600.00

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- Public Arbitrator, Presiding Chairperson
 - Public Arbitrator
 - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)


 Raymond C. Kerr, Esq.
 Public Arbitrator, Presiding Chairperson

10/3/02
 Signature Date

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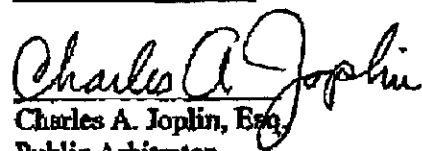
NASD REGULATION

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NASD Dispute Resolution

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Charles A. Joplin, Esq.
Public Arbitrator

10/3/02
Signature Date

Bernard D. Hammer
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
Arbitration No. 99-000992
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Public Arbitrator

Signature Date

Bernard D. Hammer
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Non-Public Arbitrator

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Signature Date

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