

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Michele N. Ferrett, (Claimant) vs. The GMS Group, L.L.C., (Respondent)

Case Number: 99-01242

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Michele N. Ferrett, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, The GMS Group, L.L.C., hereinafter referred to as "Respondent": Joseph DaProcida, Esq., Counsel, Gruntal & Co., L.L.C., New York, NY. Previously represented by: Evan J. Charkes, Esq., Assistant General Counsel, Gruntal & Co., L.L.C., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 10, 1999.

Amended Statement of Claim filed on or about: August 10, 1999.

Claimant signed the Uniform Submission Agreement: March 10, 1999.

Statement of Answer filed by Respondent on or about: May 19, 1999.

Amended Statement of Answer filed by Respondent on or about: August 23, 1999.

Respondent signed the Uniform Submission Agreement: May 20, 1999.

CASE SUMMARY

Claimant asserted the following cause of action: failure to advise Claimant that the bonds purchased for her account were "below investment grade" or "junk" bonds. Claimant's claim involved the corporate bonds of Alliance Entertainment Corp., K-mart Corp., Transportation Maritime Mexicana, and Ryland Group, Inc.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a cause of action against Respondent; Respondent and its employees and agents acted in compliance with all applicable rules and regulations and acted in good faith and did not directly induce the alleged act or acts, if any, constituting alleged violations of law; the damages allegedly suffered by Claimant have no causal relationship with any act committed by Respondent or legally attributable to Respondent; Claimant is estopped by her conduct from maintaining this action against Respondent; the Statement of Claim is barred by the doctrines of ratification

and affirmance; the injuries, if any, alleged to have been sustained by Claimant were caused, in whole or in part, by Claimant; Respondent properly, diligently, and adequately supervised its employees, agents, and representatives with respect to Claimant's accounts and complied with all relevant laws, rules, regulations, and policies regarding the duty of supervision; the Statement of Claim is barred by the doctrine of laches and by the applicable statutes of limitation; Claimant did not reasonably rely to her detriment upon any representation or action made by Respondent; the transactions complained of in the Statement of Claim were duly authorized by Claimant, who at all times was in control of the assets in her accounts; Claimant failed to mitigate her damages; Respondent and its agents did not make unsuitable recommendations with respect to the investment objectives of Claimant; Claimant's claims are barred, in whole or part, by her assumption and acceptance of the risk of loss; Claimant, through her acts and deeds, waived her rights to maintain this action against Respondent; Claimant is not entitled to attorneys' fees under any statute; and Claimant is not entitled to pre-judgement interest or costs.

RELIEF REQUESTED

In her Statement of Claim, Claimant requested compensatory damages in the amount of \$24,125.00, plus interest due in the amount of \$1,406.25. In her Amended Statement of Claim, Claimant amended her damages to request additional compensatory damages in the amount of \$4,585.00.

Respondent requested that the Panel dismiss the Statement of Claim and award Respondent its costs for defending this claim.

OTHER ISSUES CONSIDERED AND 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.

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. Claimant's claims with respect to the Ryland Group, Inc., K-mart Corp., and Transportation Maritime Mexicana bonds are hereby dismissed in their entirety.

2. With respect to Claimant's claims regarding the Alliance Entertainment Corp. bonds, Respondent be and hereby is liable for and shall pay to Claimant the sum of \$16,625.00 as compensatory damages (such amount being the value of said bonds on the date Alliance Entertainment's credit rating was downgraded), plus pre-award interest at 9.0% in the amount of \$4,295.18.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$75.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 75.00
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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 person at the time of the events giving rise to the dispute. In this matter, The GMS Group, L.L.C. is a party.

Member surcharge	= \$ 400.00
Pre-hearing process fee	= \$ 400.00
Hearing process fee	= \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings:

June 13 & 14, 2000, adjournment by Respondent	= \$ 400.00
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Forum Fees and Assessments

The Panel assesses 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:

Two (2) Pre-hearing sessions with Panel	x \$400.00	= \$ 800.00
Pre-hearing conferences:	May 15, 2000	1 session
	June 12, 2000	1 session

Two (2) Hearing sessions x \$400.00	= \$ 800.00
<u>Hearing Date:</u> November 8, 2000 2 sessions	
Total Forum Fees	= \$1,600.00

The Panel has assessed all of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 75.00
Total Fees	= \$ 75.00
<u>Less payments</u>	= \$ 420.00
Refund Due Claimant	= \$ 345.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$75.00 filing fee.

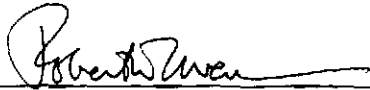
2. Respondent be and hereby is solely liable for:

Member Fees	= \$1,800.00
Adjournment Fee	= \$ 400.00
<u>Forum Fees</u>	= \$1,600.00
Total Fees	= \$3,800.00
<u>Less payments</u>	= \$2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,700.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, 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.



Robert D. Owen, Esq.
Public Arbitrator, Presiding Chair

11-28-2000
Signature Date

Aaron M. Schreiber, Esq.
Public Arbitrator

Signature Date

Thomas E. Duggan, Esq.
Industry Arbitrator

Signature Date

December 5, 2000
Date of Service (For NASD office use only)

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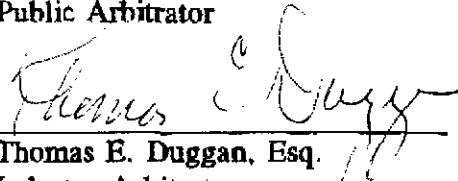
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