

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Be Thin Medical Weight Loss, Corp., Claimant v. Sunpoint Securities, Inc., Matthew J. Beaulieu,
Gary Waye, II, Van Roberson Lewis, III, Brett William Hagen, Donald L. Katz, and Dianne B.
Childers, Respondents

Case Number: 99-01251

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant Be Thin Medical Weight Loss, Corp.:

Arthur S. Leider
Investors Arbitration
Specialists, Inc.
San Diego, California

For Respondent Sunpoint Securities, Inc.:

Andrew R. Korn
Andrew R. Korn, P.C.
Dallas, Texas

For Respondents Matthew J. Beaulieu
and Gary Waye, II:

M. David Sayid, Esq.
Sayid and Associates
New York, New York

For Respondent Van Roberson Lewis, III:

Van Roberson Lewis, III
In Pro Per
Henderson, Texas

For Respondent Brett William Hagen:

Brett William Hagen
In Pro Per
Centreville, Virginia

For Respondent Donald L. Katz:

Donald L. Katz
In Pro Per
Overland Park, Kansas

For Respondent Diane B. Childers:

Janie L. Frank, Esq.
Shannon, Gracey, Ratliff &
Miller
Fort Worth, Texas

CASE INFORMATION

Claimant's Uniform Submission Agreement signed: March 12, 1999

Statement of Claim filed: March 15, 1999

Respondent Sunpoint Securities, Inc.'s Uniform Submission Agreement signed: March 30, 1999

Statement of Answer filed by Respondent Matthew J. Beaulieu: May 12, 1999

Statement of Answer filed by Respondent Sunpoint Securities, Inc.: May 28, 1999

Claimant's Amended Statement of Claim filed: June 25, 1999

Amended Statement of Answer filed by Respondent Matthew J. Beaulieu: July 12, 1999

Amended Statement of Answer filed by Respondent Gary Wayne, II: July 9, 1999

Statement of Answer filed by Donald L. Katz: May 12, 2000

Statement of Answer filed by Respondent Brett William Hagen: July 31, 2000

Statement of Answer filed by Respondent Dianne B. Childers: September 1, 2000

CASE SUMMARY

Claimant alleged breach of fiduciary duty, churning, suitability and unauthorized trading.

Respondents Sunpoint Securities, Inc., Matthew J. Beaulieu, Gary Wayne, II, Brett William Hagen, Donald L. Katz, and Dianne B. Childers denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent Van Roberson Lewis, III did not file a Statement of Answer.

RELIEF REQUESTED

Claimant requested \$156,000.00 in compensatory damages, \$300,000.00 in punitive damages, a refund of all commissions paid to Sunpoint Securities, Inc., interest, and sought reimbursement for representation fees and costs of arbitration.

Respondent Sunpoint Securities, Inc. requested dismissal of the Claimant's Statement of Claim in its entirety, and sought reimbursement for attorney's fees and costs of arbitration.

Respondents Matthew J. Beaulieu and Gary Wayne, II requested dismissal of the Claimant's Statement of Claim in its entirety, and sought reimbursement for attorney's fees and costs of arbitration for not less than \$15,000.00.

Respondent Brett William Hagen requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On June 23, 2000 NASD Dispute Resolution, Inc. received notice from Claimant that all claims against Respondent Donald L. Katz were dismissed with prejudice.

Pursuant to the Court Order dated November 19, 1999, NASD Dispute Resolution, Inc. has stayed the matter against Respondent Sunpoint Securities, Inc.

On January 5, 2000, the Panel granted Claimant's Motion to Amend dated December 7, 1999 adding Respondents Van Roberson Lewis, III, Brett V. Hagen, and Donald L. Katz.

At the hearing, Claimant dismissed Respondent Brett William Hagen without prejudice.

Respondents Matthew J. Beaulieu, Gary Wayne, II, Van Roberson Lewis, III, Brett William Hagen, Donald L. Katz, and Dianne B. Childers did not file with NASD Dispute Resolution, Inc. properly executed submission agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondent Van Roberson Lewis, III was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Matthew Beaulieu is liable to and shall pay Claimant \$11,800.00 in compensatory damages.
- 2) Respondent Gary Waye, II is liable to and shall pay Claimant \$10,800.00 in compensatory damages.
- 3) Respondent Matthew Beaulieu is liable to and shall pay Claimant interest at the rate of 10% on the sum of \$11,800.00 per annum from October 2, 1998 until the Award is paid in full.
- 4) Respondent Gary Waye, II is liable to and shall pay Claimant interest at the rate of 10% on the sum of \$10,800.00 per annum from October 2, 1998 until the Award is paid in full.
- 5) Claimant's request for punitive damages is denied.
- 6) Respondent Van Roberson Lewis, III is dismissed without prejudice.
- 7) Each party shall bear their respective costs, including attorney's fees.
- 8) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 200.00
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Adjournment Fees

The following adjournment fees are assessed:

February 8 - 10, 2000, adjournment requested by Claimant	= \$ 750.00
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February 5 - 6, 2001, adjournment requested by Respondent Matthew J. Beaulieu	= \$ 750.00
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Forum Fees and Assessments

The Panel 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 Chair/Panel.

The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$300.00/session = \$ 300.00
Pre-hearing conference: November 22, 1999 1 session

1 Pre-hearing conference session with the Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: September 9, 1999 1 session

6 Hearing sessions @ \$750.00/session = \$ 4,500.00
Hearings: March 6, 2001 2 sessions
March 7, 2001 2 sessions
March 8, 2001 2 sessions

Total Forum Fees = \$ 5,550.00

The Panel assessed \$ 3,700.00 of the forum fees to Claimant Be Thin Medical Weight Loss, Corp.

The Panel assessed \$ 925.00 of the forum fees to Respondent Matthew Beaulieu.

The Panel assessed \$ 925.00 of the forum fees to Respondent Gary Waye, II.

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 other requests.

Claimant Be Thin Medical Weight Loss, Corp., requested photocopies: =\$ 3.00

Respondent Matthew J. Beaulieu, requested photocopies: =\$ 24.50

Fee Summary

Claimant Be Thin Medical Weight Loss, Corp. is charged with the following fees and costs:

Initial Filing Fee	= \$ 200.00
Adjournment Fee	= \$ 750.00
Administrative Fee	= \$ 3.00
<u>Forum Fees</u>	<u>= \$ 3,700.00</u>
Total Fees	= \$ 4,653.00
<u>Less Payments</u>	<u>= \$ (950.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,703.00

2. Respondent Matthew J. Beaulieu is charged with the following fees and costs:

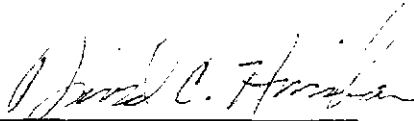
Adjournment Fee	= \$ 750.00
Administrative Fee	= \$ 24.50
<u>Forum Fees</u>	<u>= \$ 925.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,699.50

3. Respondent Gary Wayne, II is charged with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 925.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 925.00

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

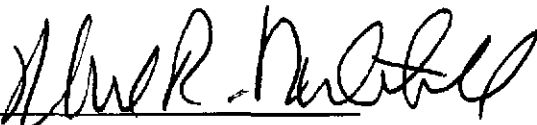
Concurring Arbitrators' Signatures



David C. Hinshaw, Esq.
Chair, Public Arbitrator

March 8, 2001

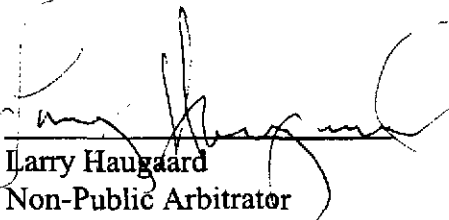
Signature Date



Michael R. Mitchell
Public Arbitrator

Mar. 8, 2001

Signature Date



Larry Haugaard
Non-Public Arbitrator

03-08-01

Signature Date

March 12, 2001

Date of Service