

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

John E. Anderson v. Joseph A. Lamothe, Jr., Lawrence I. Kravetz, Fiserv Correspondent Services, Inc. and Lumiere Securities, Inc.

Case Number: 99-2332

Hearing Site: Omaha, Nebraska

REPRESENTATION OF PARTIES

Claimant, Party Name ("Anderson"), hereinafter referred to as "Claimant": David E. Vohs, Esq., Sioux City, Iowa.

Respondent, Joseph A. Lamothe, Jr. ("Lamothe") a/k/a Jody Lamothe: pro se.

Respondent, Lawrence I. Kravetz ("Kravetz"): William D. Nelson, Esq., Rothberger Johnson & Lyons LLP, Denver, Colorado.

Respondent, Fiserv Correspondent Services, Inc. ("Fiserv"): Steven J. Plissey, Esq., Williams Youle & Koenigs, P.C., Denver, Colorado.

Respondent, Lumiere Securities, Inc., ("Lumiere"): Lawrence I Kravetz, Lumiere Securities, Denver, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: May 14, 1999

Amended Statement of Claim filed on or about: June 7, 1999

Claimant signed the Uniform Submission Agreement: May 14, 1999

Claimant's Response to Respondent Fiserv's Statement of Answer, Counterclaim for attorney fees, and Motion to Dismiss filed on or about: September 3, 1999

Claimant's Resistance to Respondent Kravetz's Motion to Dismiss filed on or about: May 1, 2000

Statement of Answer and Request to Dismiss filed by Respondent, Lumiere, on or about: August 17, 1999

Respondent, Lumiere, signed the Uniform Submission Agreement: August 16, 1999

Request to Dismiss Amended Statement of Claim, Answer and Counterclaim for Attorney Fees of Respondent, Fiserv, filed on or about: August 12, 1999

Respondent, Fiserv, signed the Uniform Submission Agreement: July 19, 1999

Statement of Answer filed by Respondent, Lamothe, on or about: August 17, 1999

Respondent Lamothe's Request to Dismiss and Motion to Accept Additional Motion After Motion Deadline filed on or about: June 8, 2000

Respondent, Lamothe, signed the Uniform Submission Agreement: August 16, 1999

Statement of Answer filed by Respondent, Kravetz, on or about: August 17, 1999

Respondent, Kravetz, signed the Uniform Submission Agreement: August 16, 1999

Respondent Kravetz's Motion to Dismiss filed on or about: April 14, 2000

Respondent Kravetz's Reply to Resistance to Motion to Dismiss filed on or about: May 10, 2000

Respondent Kravetz's Further Reply to Resistance to Motion to Dismiss filed on or about: May 10, 2000

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading and churning. The causes of action relate to alleged mishandling, including margin trading, of Claimant's investment account.

Unless specifically admitted in his Answer, Respondent Lamothe denied the allegations made in the Statement of Claim and asserted that he fully explained "margin" to Claimant, Claimant was a sophisticated investor, if Claimant was a victim of anything, it was a drop in the market, and all trades were suitable.

Unless specifically admitted in his Answer, Respondent Kravetz denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent Fiserv denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent Fiserv acted as a clearing broker, and as such is not liable to the investors whose transactions they clear, in addition to defenses including failure to state a claim upon which relief may be granted; the doctrines of waiver, estoppel, laches, and assumption of the risk; contributory negligence; and failure to mitigate. Respondent Fiserv filed a Counterclaim requesting attorneys fees.

Unless specifically admitted in its Answer, Respondent Lumiere denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested: \$199,500.00 in compensatory damages plus \$225,000.00 in punitive damages

Respondent Lamothe requested dismissal and unspecified relief.

Respondent Kravetz requested attorney's fees and costs.

Respondent Fiserv requested dismissal, attorney fees, expert witness fees, costs, and any other relief the panel deems appropriate.

Respondent Lumiere requested dismissal and unspecified relief.

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.

The Panel granted Respondent Kravetz's Motion to Dismiss prior to arbitration. However, Respondent Kravetz's Request for attorney's fees was adjudicated by the Panel at the arbitration hearing.

The Panel granted Respondent Fiserv's Motion to Dismiss prior to arbitration. However, Respondent Fiserv's Counterclaim was adjudicated by the Panel at the arbitration hearing

No claims against Respondent Fiserv were adjudicated by the Panel at the arbitration hearing.

The Panel denied Respondent Lamothe's Motion to Dismiss at hearing.

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, each and all, are denied with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) Fiserv Correspondent Services, Inc.'s, Counterclaim for attorney's fees is denied
- 4.) Respondent Kravetz's, request for attorney's fees is denied;
- 5.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$300.00
Counterclaim filing fee	= \$500.00 (Fiserv)

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firms are parties.

Member surcharge	= \$1,500.00 (Fiserv) / \$1,500.00 (Lumiere)
Pre-hearing process fee	= \$ 600.00 (Fiserv)
Hearing process fee	= \$2,500.00 (Fiserv)

Adjournment Fees

Adjournments requested during these proceedings: N/A

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: January 11, 2000 1 session	
Two (2) Hearing sessions x \$1,125.00	= \$2,250.00
Hearing Date: June 19, 2000 2 sessions	
Total Forum Fees	= \$3,375.00

The Panel has assessed \$1,687.50 of the forum fees to John E. Anderson.

The Panel has assessed \$1,687.50 of the forum fees to Joseph A. Lamothe, Jr.

Fee Summary

Claimant, John E. Anderson, be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 1,687.50
Total Fees	= \$ 1,987.50
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Regulation, Inc.	= \$ 562.50

Respondent, Joseph Antonio Lamothe, Jr., be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 1,687.50
Total Fees	= \$ 1,687.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$ 1,687.50

Respondent, Fiserv Correspondent Services, Inc., be and hereby is solely liable for:

Member Fees	= \$4,600.00
<u>Counterclaim Filing Fee</u>	= \$ 500.00
Total Fees	= \$5,100.00
<u>Less Payments</u>	= \$4,600.00
Balance Due NASD Regulation, Inc.	= \$ 500.00

Respondent, Lumiere Securities, Inc., be and hereby is solely liable for:

<u>Member Fees</u>	= \$1,500.00
Total Fees	= \$1,500.00
<u>Less Payments</u>	= \$ 165.00
Balance Due NASD Regulation, Inc.	= \$1,335.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/ Roland Santoni, Esq.
Roland Santoni, Esq.
Public Arbitrator, Presiding Chair

07/12/00
Signature Date

/s/ Robert Berkshire, Esq.
Robert Berkshire, Esq.
Public Arbitrator

7/12/00
Signature Date

/s/ James A. Ricketts
James A. Ricketts
Industry Arbitrator

07/12/00
Signature Date

07/13/00
Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration # 99-2332
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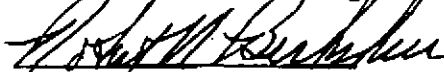
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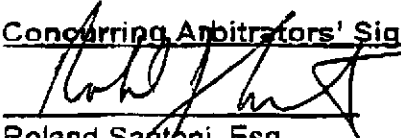
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