

Stipulated Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Frances H. Nash, (Claimant) vs. Josephthal & Co., Inc., Michael Carreon,
Kenneth Cerruto, Vincent Reinstein and James Hawryluk (Respondents).

Case Number: 99-03213

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Frances H. Nash, hereinafter referred to as "Claimant": Timothy M. McDaniel, Esq., McDaniel & Allen, Houston, Texas.

Respondents, Josephthal & Co., Inc. ("Josephthal"), Michael Carreon ("Carreon"), Vincent Reinstein ("Reinstein") and James Hawryluk ("Hawryluk"), hereinafter collectively referred to as "Respondents": Brian Neville, Esq., Josephthal & Co., Inc., New York, New York.

Respondent, Kenneth Cerruto ("Cerruto"), hereafter referred to as "Respondent": Bradley M. Whalen, Esq., Doyle, Rider, Restrepo, Harvin & Robbins, Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: July 14, 1999
Claimant signed the Uniform Submission Agreement: June 22, 1999
Statements of Answer filed by Respondents on or about: October 8, 1999,
October 21, 1999 and October 25, 1999
Respondent, Kenneth Cerruto, signed the Uniform Submission Agreement:
October 2, 1999

CASE SUMMARY

Claimant and Respondents filed the following joint case summary:

Claimant Francis Nash, by and through her counsel Timothy
M. McDaniel, Esq., and Josephthal & Co. Inc., ("Josephthal"),
Michael Carreon ("Carreon"), Vincent Reinstein ("Reinstein") James

Hawryluk ("Hawryluk"), by and through their counsel, Brian J. Neville, Esq., and Kenneth P. Cerruto ("Cerruto") by and through his counsel, Bradley M. Whalen, Esq.; having fully compromised the claims asserted in the above-captioned arbitration, hereby agree and stipulate through their undersigned counsel as follows:

- 1) A Dismissal with Prejudice of any and all claims that were asserted or could have been asserted against all Respondents in this arbitration;
- 2) Whereas James Hawryluk was not the branch office manager at the time Claimant's account was active at Josephthal, and the only claims asserted against Hawryluk related to an alleged failure to supervise, the Parties have agreed that this Panel should issue an Order expunging this matter from James Hawryluk's Form U-4 and from his CRD record;
- 3) Whereas Kenneth P. Cerruto was not the branch office manager at the time Claimant's account was active at Josephthal, and the only claims asserted against Cerruto related to an alleged failure to supervise, the Parties have agreed that this Panel should issue an Order expunging this matter from Kenneth P. Cerruto's Form U-4 and from his CRD record;
- 4) All parties agree to jurisdiction in the United States District Court, Southern District of Texas, Houston Division, for confirmation of the Award;
- 5) All parties agree to accept service in any subsequent proceeding to confirm this Award by Certified U.S. Postal Mail to its counsel; and further agrees not to oppose any Motion to Confirm this Award; and
- 6) All parties agree to bear their own cost and attorney fees, however, Josephthal agrees to bear any NASD cost for the issuance of this Award.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages	\$500,000
Punitive Damages	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

In their Answers, Respondents requested:

Dismissal of Claim

Order of Expungement for Hawryluk

Attorneys' Fees

Other Costs

unspecified

unspecified

OTHER ISSUES CONSIDERED AND DECIDED

On January 21, 2000, the Claimant and Respondents agreed to proceed with a single arbitrator and agreed to waive the list selection method of appointing the arbitrator.

Respondents Josephthal & Co., Inc., Michael Carreon, Vincent Reinstein and James Hawryluk did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

AWARD

After considering the pleadings and case summary presented by the parties, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims that were asserted in the Statement of Claim submitted by Frances H. Nash and all claims that could have been asserted are dismissed with prejudice;
2. The undersigned Arbitrator hereby orders the expungement of this arbitration case from the Central Registration Depository ("CRD" of the NASD, Inc. for the record of James Hawryluk (CRD Number 1690620) and Kenneth P. Cerruto (CRD Number 862984);
3. By agreement of the parties, all parties agree to accept service in any subsequent proceeding to confirm this Award by Certified U.S. Postal Mail to its counsel and further agree to not oppose any Motion to Confirm this Award;
4. All parties shall bear their own costs and attorneys' fees; and
5. Any and all relief not specifically addressed herein is denied.

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

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 firm(s) is Josephthal & Co., Inc.

Member surcharge = \$1,500

Pre-hearing process fee = \$600

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. There were no hearing sessions held.

Fee Summary

1. Claimant, Frances H. Nash, be and hereby is solely liable for:

Initial Filing Fee = \$300

Total Fees = \$300

Less payments = \$1,425

Refund = \$1,125

2. Respondent, Josephthal & Co., Inc., be and hereby is solely liable for:

Member Fees = \$2,100

Total Fees = \$2,100

Less payments = \$1,500

Balance Due NASD Regulation, Inc. = \$600

All balances are due to NASD Regulation, Inc.

Concurring Arbitrator's Signature



Bertrand S. Moser, Esq.
Public Arbitrator, Presiding Chair

4/11/00
Signature Date

Date of Service (For NASD office use only)