

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Daniel A. Gabriel, (Claimant) vs. Larry A. Heffez, (Respondent)

Case Number: 99-04851

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Daniel A. Gabriel, hereinafter referred to as "Claimant": James A. Bush, Esq., a sole practitioner, Cardiff By the Sea, CA.

Respondent, Larry A. Heffez, hereinafter referred to as "Respondent": Robert Melamed, Esq., a sole practitioner, Brooklyn, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 26, 1999.

Claimant signed the Uniform Submission Agreement: September 9, 1999.

Statement of Answer filed by Respondent on or about: February 17, 2000.

Respondent signed the Uniform Submission Agreement: February 17, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: margin trading without authorization and failure to liquidate Claimant's account as requested. Claimant's claim involved unspecified financial products.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Statement of Claim failed to state a cause of action upon which relief can be granted; the claim is barred by the equitable doctrines of estoppel, waiver, ratification, and laches; claim is barred by Claimant's own contributory negligence; and Claimant failed to mitigate his damages.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$24,000.00; prejudgment and postjudgment interest at the highest rate, and from the earliest date, allowed by law; costs and attorneys' fees incurred herein; and such other relief as the Arbitrator deems just.

Respondent requested that the Arbitrator award him the costs and fees incurred for retaining an attorney and disputing 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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby denied in their entirety.
2. 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 = \$ 125.00

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, West America Securities, Corp. is the Respondent's former firm.

Member surcharge = \$ 400.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$ 450.00	= \$ 450.00
Pre-hearing conference: October 5, 2000 1 session	
Two (2) Hearing sessions x \$450.00	= \$ 900.00
Hearing Date: February 26, 2001 2 sessions	
Total Forum Fees	= \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$675.00 of the forum fees against Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent, requested tapes, \$60.00.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 800.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00
2. Respondent be and hereby is solely liable for:

Forum Fees	= \$ 675.00
Administrative Costs	= \$ 60.00
Total Fees	= \$ 735.00
Less payments	= \$ 60.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 675.00

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3. West America Securities, Corp. be and hereby is solely liable for:

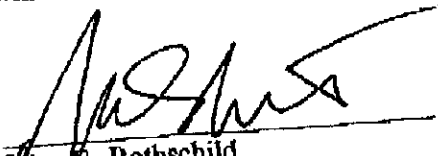
<u>Member Fees</u>	= \$ 400.00
Total Fees	= \$ 400.00
<u>Less Payments</u>	= \$ 400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

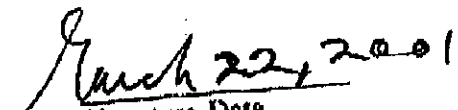
All balances are due and payable to NASD Dispute Resolution, Inc.

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Arbitrator's Signature

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.


John E. Rothschild
Public Arbitrator


March 22, 2001
Signature Date

March 23, 2001
Date of Service (For NASD office use only)