

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Richard Remington

Case Number: 12-04224

vs.

Respondents
Omar Ibrahim Hassan
John Thomas Financial

Hearing Site: San Francisco, California

Nature of the Dispute: Customer vs. Member and Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

Claimant Richard Remington, hereinafter referred to as "Claimant": Sara E. Hanley, Esq., The Law Offices of Place & Hanley, PLLC, Naples, Florida

Respondent Omar Ibrahim Hassan, hereinafter referred to as "Respondent Hassan": David Hirschberg, Esq., Wexler Burkhart Hirschberg & Unger, LLP, Garden City, New York

Respondent John Thomas Financial: Maria Cummings, Custodian, John Thomas Financial, Maspeth, New York

CASE INFORMATION

Statement of Claim filed on or about: December 6, 2012

Claimant signed the Submission Agreement: November 28, 2012

Statement of Answer filed by Respondent Hassan and Respondent John Thomas Financial on or about: March 5, 2013

Respondent Hassan signed the Submission Agreement: March 5, 2013

Respondent John Thomas Financial signed the Submission Agreement: March 5, 2013

CASE SUMMARY

Claimant asserted the following causes of action: suitability; common law fraud; negligence; breach of fiduciary duty; failure to protect; failure to supervise; misrepresentations; omissions; failure to execute; misconduct; violation of industry rules; and breach of contract. The causes of action relate to Claimant's investments in Proshares exchange traded funds and America West Resources stock.

Unless specifically admitted in their joint Answer, Respondent Hassan and Respondent John Thomas Financial denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$157,445.05;
2. Interest;
3. Punitive damages;
4. Rescission; and
5. Costs.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$157,949.00.

In their joint Answer, Respondent Hassan and Respondent John Thomas Financial requested:

1. Claimant's claims be dismissed with prejudice;
2. Forum fees;
3. Expungement of this matter from Respondent Hassan's Central Registration Depository ("CRD") records; and
4. Such other and further relief as deemed appropriate by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On February 24, 2014, Claimant submitted a Motion for Sanctions against Respondent Hassan regarding discovery issues. Respondent Hassan did not submit a response. On March 13, 2014, the Panel held a pre-hearing conference so the parties could present oral argument on Claimant's motion. By Order dated March 14, 2014, the Panel determined to not order sanctions against Respondent Hassan if he complied with the terms he outlined in his Motion to Postpone within a ten-day period. Further, the Panel reserved the right to order sanctions in the future.

During the March 13, 2014 pre-hearing conference, Claimant and Respondent Hassan requested to appear telephonically for the evidentiary hearing. Neither Claimant nor Respondent Hassan opposed the other party's request. By order dated March 13, 2014, the Panel granted Claimant and Respondent Hassan's requests.

On March 31, 2014, Claimant submitted a Motion to Enforce Sanctions regarding discovery issues. On April 4, 2014, Respondent Hassan submitted a response opposing Claimant's motion. On April 7, 2014, Claimant submitted a reply in further support of his motion. On April 14, 2014, the Panel determined to hear oral arguments on the motion before the start of the evidentiary hearing.

Respondent John Thomas Financial did not attend the evidentiary hearing. Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondent John Thomas Financial received due notice of the hearing, and that arbitration of the matter would proceed without Respondent John Thomas Financial present, in accordance with the Code of Arbitration Procedure (the "Code").

The parties present at the hearing 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. Respondent Hassan is liable for and shall pay to Claimant compensatory damages in the amount of \$7,950.00, plus interest at a rate of 6% per annum beginning May 15, 2014 until the award of \$7,950.00 is paid in full.
2. Respondent Hassan is liable for and shall pay to Claimant sanctions in the amount of \$5,100.00 within ninety days of service of this award. If Respondent Hassan fails to pay Claimant \$5,100.00 within ninety days of service of this award, Respondent Hassan owes Claimant \$100.00 per day as an additional fine, until the amount of \$5,100.00 is paid in full.
3. Respondent John Thomas Financial is liable for and shall pay to Claimant compensatory damages in the amount of \$150,000.00, plus interest at a rate of 6% per annum beginning May 15, 2014 until the award of \$150,000.00 is paid in full.
4. Respondent Hassan's request for expungement of this matter is denied.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee

= \$ 1,425.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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. Accordingly, as a party, John Thomas Financial is assessed the following:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 18 – 21, 2014, adjournment by Respondent Hassan	= \$ 1,125.00
Total Adjournment Fees	= \$ 1,125.00

The Panel has assessed \$1,125.00 of the adjournment fees to Respondent Hassan.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A 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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: October 29, 2013 1 session	
Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences: April 18, 2013 1 session	
March 13, 2014 1 session	
Four (4) Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearing Dates: April 17, 2014 2 sessions	
April 18, 2014 2 sessions	
Total Hearing Session Fees	= \$ 7,200.00

1. The Panel has assessed \$3,600.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$787.50 of the hearing session fees jointly and severally to Respondent Hassan and Respondent John Thomas Financial.
3. The Panel has assessed \$2,812.50 of the hearing session fees to Respondent Hassan.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Kenneth W. Gosliner	-	Public Arbitrator, Presiding Chairperson
Michael Lancaster Garcia	-	Public Arbitrator
Norman S. Nayfach	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures

Kenneth W. Gosliner
Kenneth W. Gosliner
Public Arbitrator, Presiding Chairperson

5-6-14
Signature Date

Michael Lancaster Garcia
Public Arbitrator

Signature Date

Norman S. Nayfach
Public Arbitrator

Signature Date

MAY 7, 2014
Date of Service (For FINRA Dispute Resolution office use only)

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Public Arbitrator

Signature Date

Norman S. Nayfach

5/6/14

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Public Arbitrator

Signature Date

MAY 7, 2014

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