

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Paul Beattie
Maureen Beattie
Brianna Beattie
Brooke Beattie
Kenneth McEwen

Case Number: 15-02495

vs.

Respondents

Dakota Securities International, Inc.
Christopher Russell McNamee

Hearing Site: Newark, New Jersey

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

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Paul Beattie, Maureen Beattie, Brianna Beattie, Brooke Beattie, and Kenneth McEwen, hereinafter collectively referred to as "Claimants": Jorge Altamirano, Esq., and August Iorio, Esq., Zamansky LLC, New York, New York.

For Respondent Dakota Securities International, Inc. ("Dakota"): Bruce Zipper, Dakota Securities International, Inc., Miami, Florida.

Respondent Christopher Russell McNamee ("McNamee"): pro se.

CASE INFORMATION

Statement of Claim filed on or about: September 23, 2015.

Brianna Beattie signed the Submission Agreement: September 23, 2015.

Brooke Beattie signed the Submission Agreement: September 23, 2015.

Paul Beattie signed the Submission Agreement: September 23, 2015.

Maureen Beattie signed the Submission Agreement: September 23, 2015.

Kenneth McEwen signed the Submission Agreement: September 23, 2015.

Joint Statement of Answer filed by Respondent Dakota and McNamee on or about: November 12, 2015.

Dakota signed the Submission Agreement: November 13, 2015.

McNamee did not sign the Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, breach of fiduciary duty, fraud, negligence, common law misrepresentation, unsuitability, excessive trading, churning, excessive margin, disgorgement of fees and commissions, overconcentration and failure to supervise in violation of Federal Securities laws, FINRA Rules and New Jersey securities statute and common law. The causes of action relate to unspecified securities.

Unless specifically admitted in the Joint Statement of Answer, Dakota and McNamee denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in an amount of \$1,000,000.00, punitive damages, interest, costs, and attorneys' fees.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$5,603,264.00.

In the Joint Statement of Answer Dakota and McNamee requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about December 31, 2015, Respondent Dakota filed a Motion to Dismiss. Claimants filed an Opposition on January 11, 2016; Respondent Dakota filed a Reply dated January 14, 2016, and Supplemental Reply on or about February 13, 2016. After due deliberation, the Panel denied Respondent Dakota's Motion by Order dated February 29, 2016.

On October 21, 2016, Claimants notified FINRA Dispute resolution that Claimants and Respondent Dakota reached a settlement on this matter.

On or about November 30, 2016, Claimant filed a Motion for Default Judgment against Respondent McNamee. Respondent McNamee did not file a Response. After due consideration, the Panel denied the Motion by Order dated January 18, 2017.

Respondent McNamee did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Panel on all issues submitted.

Respondent McNamee did not appear at the evidentiary hearing. Upon review of the file and the representations made on behalf of the Claimants, the Panel determined that Respondent McNamee has been 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 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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent McNamee is liable for and shall pay to Claimants compensatory damages in the amount of \$170,000.00.
2. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
3. Any and all claims for relief not specifically addressed herein, including punitive damages and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$ 1,725.00
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**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Dakota Securities International, Inc. is assessed the following:

Member Surcharge	= \$ 2,475.00
Member Process Fee	= \$ 5,075.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed or waived:

November 7-11, 2016, adjournment by Claimants = \$1,300.00

Total Adjournment Fees = \$1,300.00

1. The Panel has assessed \$650.00 of the adjournment fees jointly and severally to Claimants.
2. The Panel has assessed \$650.00 of the adjournment fees to Respondent McNamee.

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision = \$ 200.00

Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the \$200.00 discovery-related motion fees to Respondent Dakota.

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

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session = \$3,900.00

Pre-hearing conferences: February 11, 2016 1 session
February 23, 2016 1 session
May 25, 2016 1 session

One (1) hearing session @ \$1,300.00/session = \$1,300.00

Hearing Date: March 29, 2017 1 session

Total Hearing Session Fees = \$5,200.00

The Panel has assessed \$3,900.00 of the hearing session fees to Respondent Dakota.

The Panel has assessed \$1,300.00 of the hearing session fees for the expungement hearing to Respondent McNamee.


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

ARBITRATION PANEL


Margaret Leggett Tarver	-	Public Arbitrator, Presiding Chairperson
Michael Fischetti	-	Public Arbitrator
Michael Quintieri	-	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



Margaret Leggett Tarver
Public Arbitrator, Presiding Chairperson



Signature Date

Michael Fischetti
Public Arbitrator

Signature Date

Michael Quintieri
Public Arbitrator

Signature Date

May 4, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Margaret Leggett Tarver	-	Public Arbitrator, Presiding Chairperson
Michael Fischetti	-	Public Arbitrator
Michael Quintieri	-	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

Margaret Leggett Tarver
Public Arbitrator, Presiding Chairperson

Signature Date

Michael Fischetti

Michael Fischetti
Public Arbitrator

May 2, 2017

Signature Date

Michael Quintieri
Public Arbitrator

Signature Date

May 4, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)