

**Award**  
**NASD Dispute Resolution, Inc.**

In the Matter of the Arbitration Between

Name of Claimants

Jianhua Fan  
Rongru Zheng

Case No. 00-03535

Name of Respondents

WMA Securities, Inc.;  
Ping Yang; and,  
Pacific Life Insurance Company

Hearing Site: Nashville, Tennessee

**REPRESENTATION OF PARTIES**

Claimants Jianhua Fan ("Fan") and Rongru Zheng ("Zheng"), together referred to as "Claimants," were represented by Jianhua Fan of Nashville, Tennessee.

Respondent WMA Securities, Inc. ("WMA") was represented by John W. Lamb, Esq. of Boulton Cummings Conners & Berry, PLC, located in Nashville, Tennessee.

Respondent Ping Yang ("Yang") did not appear.

Pacific Life Insurance Company is not a member firm and did not voluntarily submit to arbitration.

**CASE INFORMATION**

Statement of Claim filed on or about: August 15, 2000.

Claimant Fan signed the Uniform Submission Agreement: July 20, 2000.

Claimant Zheng signed the Uniform Submission Agreement: July 21, 2000.

Statement of Answer filed by Respondent WMA on or about: January 19, 2001.

Respondent WMA signed the Uniform Submission Agreement: January 19, 2001.

Respondent WMA's Motion for Summary Judgment filed on: September 7, 2001.

Claimants' Response to the Motion for Summary Judgment filed: September 13, 2001.

Respondent Yang did not file an answer or an executed submission agreement.

### **CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentation and breach of fiduciary duty. The claims related to the sale of a mutual fund and subsequent purchase of a life insurance policy through Yang, an agent of Pacific Life and WMA.

Unless specifically admitted in its Answer, Respondent WMA denied the allegations made in the Statement of Claim and asserted that the claims for personal injuries alleged in the Claim are outside the jurisdiction of the NASD and barred by the applicable statute of limitations.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$18,245.00; punitive damages of \$30,000.00; interest; attorneys' fees and costs for phone bills, mails, and medicines.

Respondent WMA requested that the claims be dismissed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Yang did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

Upon review of the file and the representations made by the Claimants, the undersigned arbitrator determined that Respondent Yang was 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 NASD Code of Arbitration Procedure (the "Code").

At hearing, Respondent WMA presented a Motion for Summary Judgment pursuant to the applicable statute of limitations. After hearing argument, the arbitrator granted the motion in part and barred testimony of any personal injury, but denied the motion in regard to the remaining claims.

At the conclusion of the Claimants' case, Respondents presented a Motion for Directed Verdict. The arbitrator determined that: 1) damages for attorneys' fees would not be considered; 2) only \$5,000.00 of the \$9,000.00 in damages alleged by Claimants for the mutual funds' sale would be considered by the arbitrator; and 3) all remaining damages alleged by Claimants would be ruled on by the arbitrator.

### **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. The Statement of Claim is dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated herein; and
3. 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**

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

Initial claim filing fee = \$ 175.00

#### **Member Fees**

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

Member surcharge = \$ 800.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 1,000.00

#### **Adjournment Fees**

Adjournments requested during these proceedings: None.

#### **Forum Fees and Assessments**

The arbitrator has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, 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 sessions with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: May 23, 2001 1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date: September 25, 2001 2 sessions

Total Forum Fees = \$ 1,350.00

The arbitrator has assessed \$1,350.00 of the forum fees to Respondent WMA Securities, Inc.

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**TEE SUMMARY**

Claimants Jianhua Fan and Rongru Zheng are jointly and severally liable for:

Initial Filing Fee	= \$ 175.00
Less payments	= \$ 775.00
Balance Due from NASD Dispute Resolution, Inc.	= \$ 600.00

Respondent WMA Securities, Inc. is solely liable for:

Member Fees	= \$ 2,400.00
Forum Fees	= \$ 1,350.00
Total Fees	= \$ 3,750.00
Less payments	= \$ 1,400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,350.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Rosemarie L. Bryan, J.D. - Public Arbitrator, Presiding Chair

Concurring Arbitrator's Signature

Rosemarie L. Bryan, J.D.  
Public Arbitrator, Presiding Chair

10-17-2001  
Signature Date

October 18, 2001

Date of Service (For NASD-Dispute Resolution office use only)