

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Patrick Lee and Patrick Lee IRA, (Claimants) vs. Glenn Michael Financial, Inc., Glenn Michael Lanaia, Francine Ann Lanaia, and Morris Angelou, (Respondents)

Case Number: 01-00295

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Patrick Lee ("Lee") and Patrick Lee IRA ("Lee IRA"), hereinafter collectively referred to as "Claimants": John T. McGuire, Esq., a sole practitioner, New York, NY.

Respondent, Glenn Michael Financial, Inc. ("GMF"): James W. Weller, Esq., Nixon Peabody LLP, Garden City, NY.

Respondents, Glenn Michael Lanaia ("G. Lanaia") and Francine Ann Lanaia ("F. Lanaia"): Lawrence R. Gelber, Esq., a sole practitioner, Brooklyn, NY. Previously represented by: James W. Weller, Esq., Nixon Peabody LLP, Garden City, NY.

Respondent, Morris Angelou ("Angelou"), did not appear at the hearings in this matter. Previously represented by: James W. Weller, Esq., Nixon Peabody LLP, Garden City, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 9, 2001.

Lee signed the Uniform Submission Agreement: January 12, 2001.

Lee IRA signed the Uniform Submission Agreement: January 12, 2001.

Joint Statement of Answer filed by GMF, G. Lanaia, F. Lanaia, and Angelou on or about: May 9, 2001.

GMF signed the Uniform Submission Agreement: May 8, 2001.

G. Lanaia signed the Uniform Submission Agreement: May 15, 2001.

F. Lanaia signed the Uniform Submission Agreement: May 15, 2001.

Angelou did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; securities fraud; breach of fiduciary duty; negligence; breach of contract; failure to supervise; and control person liability. Claimant's claim involved unspecified financial products.

Unless specifically admitted in their Answer, GMF, G. Lanaia, F. Lanaia, and Angelou denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails in all respects to state one or more claims upon which relief can be granted; Claimants failed to take action to mitigate their losses; Claimants' losses are due to their own conduct and not that of Respondents; the investments in Claimants' accounts were suitable for Claimants, and consistent with Claimants' stated investment objectives; Claimants' claims are barred by the doctrines of waiver, ratification, laches, offset, estoppel, and contributory negligence of third persons; some or all of the claims are barred by the applicable statute of limitations; Respondents' alleged conduct was not the direct and proximate cause of any damages incurred by Claimants; Respondents did not act with scienter, recklessness, or with any improper intent; any losses sustained by Claimants were caused by market forces and were beyond the control and responsibility of Respondents; Respondents did not make representations or omissions of material facts, nor did they engage in conduct inconsistent with applicable state and federal securities laws; all commissions and mark-ups charged to Claimants' accounts were reasonable, authorized, and permitted pursuant to applicable rules and regulations; punitive damages are not permitted under NASD rules and regulations; Claimants' claims are barred by Section 20(a) of the Securities Exchange Act of 1934 because the control person acted in good faith and did not directly or indirectly induce the act or acts complained of; and Claimants' claims are barred because GMF's supervisory procedures were reasonable and adequate in light of GMF's size and mix of business.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$250,000.00, plus interest from the date the losses were incurred to the date of the hearing, punitive damages, attorneys' fees, costs, and any other damages the Panel may deem just and fair.

GMF, G. Lanaia, F. Lanaia, and Angelou requested:

- a. That the claims against them be dismissed, or in the alternative denied in their entirety;
- b. That all forum fees be awarded against Claimants;
- c. That they be awarded costs and attorneys' fees incurred in responding to this claim;
- d. That the complaints of Claimants be expunged from the CRD record of Respondents; and
- e. That the Panel grant such other and further relief as it deems just and proper under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing that took place on February 22, 2002, Claimants' attorney advised the Panel that Claimant had entered into a settlement agreement with Respondents GMF, G. Lanaia, and F. Lanaia.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Angelou 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 Angelou present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Angelou 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, having answered the claim, is bound by the determination of the Panel on all issues submitted.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Angelou be and hereby is liable for and shall pay to Claimants the sum of \$50,000.00 as compensatory damages, plus \$400,000.00 as punitive damages. The basis for this Award is set forth in the Panel's Report below.
2. All other requests for relief are hereby denied.

PANEL'S REPORT

Angelou refused to participate in the arbitration after he received notice. The Panel was informed by uncontradicted testimony that Angelou contacted Claimant Lee and asked him to drop the arbitration after the proceedings had commenced. The Panel considered this an unfair attempt by Angelou to influence the outcome of the arbitration. The Panel heard testimony from the Claimant and the Respondents, and accepted into evidence exhibits submitted by both parties. The Panel concluded that the Claimants version of events was more creditable than the Respondents, and that the weight of the evidence favored the Claimant.

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	= \$ 300.00
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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, Glenn Michael Financial, Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

Nov. 13 & 14, 2001, adjournment by all Respondents	= \$1,125.00
February 13, 2002, adjournment by GMF	= WAIVED

Forum Fees and Assessments

The Panel assesses 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel x \$1,125.00	= \$3,375.00
Pre-hearing conferences:	
August 28, 2001	1 session
November 27, 2001	1 session
February 13, 2002	1 session
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates:	
January 10, 2002	2 sessions
January 11, 2002	1 session
February 22, 2002	1 session
Total Forum Fees	= \$7,875.00

The Panel has assessed all of the forum fees against GMF.

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. G. Lanaia and F. Lanaia, requested tapes, \$60.00.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimants</u>	= \$ 1,125.00

2. GMF be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	= <u>\$ 7,875.00</u>
Total Fees	= \$12,475.00
<u>Less payments</u>	= <u>\$ 2,550.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 9,925.00

3. GMF, G. Lanaia, F. Lanaia & Angelou be and hereby are jointly and severally liable for:

<u>Adjournment Fee</u>	= <u>\$ 1,125.00</u>
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= <u>\$ 1,125.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

4. G. Lanaia and F. Lanaia be and hereby are jointly and severally liable for:

<u>Administrative Costs</u>	= <u>\$ 60.00</u>
Total Fees	= \$ 60.00
<u>Less payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 60.00

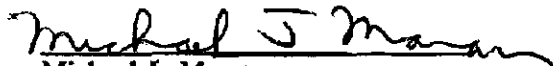
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Michael J. Maran	-	Public Arbitrator, Presiding Chair
Mitchel Flaum	-	Public Arbitrator
Ruth Heisler	-	Industry Arbitrator

Concurring Arbitrators' Signatures

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.


Michael J. Maran
Public Arbitrator, Presiding Chair

Signature Date

Mitchel Flaum
Public Arbitrator

Signature Date

Ruth Heisler
Industry Arbitrator

Signature Date

July 18, 2002

Date of Service (For NASD office use only)

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