

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Medusa Finanz Anstalt and F&MWL Enterprises, Inc., (Claimants) vs. Sam Ramirez, Jr. and Ramirez & Co., Inc., (Respondents)

Case Number: 01-01419

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants Medusa Finanz Anstalt ("Anstalt") and F&MWL Enterprises, Inc. ("F&MWL"), hereinafter collectively referred to as "Claimants": David Jaroslawicz, Esq., Jaroslawicz & Jaros, New York, NY.

Respondents Sam Ramirez, Jr. ("Ramirez") and Ramirez & Co., Inc. ("R&C"), hereinafter collectively referred to as "Respondents": Amybeth Garcia-Bokor, Esq., Proskauer Rose LLP, Washington, D.C.

CASE INFORMATION

Statement of Claim filed on or about: March 19, 2001.

Amended Statement of Claim filed on or about: April 4, 2001.

Uniform Submission Agreement signed on behalf of Claimants: March 15, 2001.

Joint Statement of Answer filed by Respondents on or about: June 8, 2001.

Ramirez signed the Uniform Submission Agreement: May 3, 2001.

R&C signed the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; misleading information provided to Claimants; and omission of facts. Claimants' claim involved Franklin High Yield Funds, Rochester Municipal Funds, and a Goldman-Sachs fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted the following defenses: Claimants fail to state a cause of action upon which relief may be granted; the Amended Statement of Claim is bereft of any allegations of statutory or common law violations; Claimants' claims are barred by the applicable statutes of limitation; Claimants' claims are barred by the doctrines of unclean hands, waiver, and ratification; Claimants willingly chose to engage in the transactions they now complain of with full knowledge of the risks attendant to those investments; and Claimants' request for punitive damages cannot be granted under applicable law or on the basis of the facts alleged in the Amended Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$300,000.00, plus interest, attorneys' fees in the amount of \$100,000.00, and punitive damages in the amount of \$500,000.00.

Respondents requested:

- a. That Claimants' claims be dismissed in their entirety;
- b. Payment of all costs, including arbitral and tribunal fees generated in this matter;
- c. Payment of legal fees incurred by Respondents in having to defend the baseless and factually inaccurate claims asserted by Claimants;
- d. Expungement from the CRD system of the allegations against Ramirez; and
- e. Such additional relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration in this matter. The Uniform Submission Agreement submitted upon filing of the Statement of Claim was executed by Claimants' attorney. Based upon Claimants' participation in this arbitration proceeding, as well as the terms of Claimants' customer account agreement, the Panel determined that NASD Dispute Resolution, Inc. has jurisdiction over this dispute. Therefore, Claimants are 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are hereby dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Ramirez's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Ramirez must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. 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	= \$ 375.00
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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, Ramirez & Co., Inc. is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$2,400.00

Pre-hearing conferences:	January 31, 2002	1 session
	March 20, 2002	1 session

Two (2) Hearing sessions x \$1,200.00 = \$2,400.00

Hearing Date: May 21, 2002 2 sessions

Total Forum Fees	= \$4,800.00
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1. The Panel has assessed \$2,400.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$2,400.00 of the forum fees jointly and severally against Respondents.

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. Respondents requested photocopies: = \$ 10.50

Fee Summary

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

Initial Filing Fee = \$ 375.00

Forum Fees = \$2,400.00

Total Fees = \$2,775.00

Less payments **= \$1,575.00**

Balance Due NASD Dispute Resolution, Inc. = \$1,200.00

2. R&C be and hereby is solely liable for:

<u>Member Fees</u>	= \$6,100.00
<u>Total Fees</u>	= \$6,100.00
<u>Less payments</u>	= \$6,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$2,400.00
<u>Administrative Costs</u>	= \$ 10.50
<u>Total Fees</u>	= \$2,410.00
<u>Less payments</u>	= \$1,010.50
Balance Due NASD Dispute Resolution, Inc.	= \$1,400.00

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

ARBITRATION PANEL

Donald Ferguson, Esq.	-	Public Arbitrator, Presiding Chair
Irwin Kahn, Esq.	-	Public Arbitrator
Gilbert F. Bach, Sr., Esq.	-	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.

Donald Ferguson
Donald Ferguson, Esq.
Public Arbitrator, Presiding Chair

June 26, 2002
Signature Date

Irwin Kahn, Esq.
Public Arbitrator

Signature Date

Gilbert F. Bach, Sr., Esq.
Industry Arbitrator

Signature Date

June 27, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL


Donald Ferguson, Esq.	-	Public Arbitrator, Presiding Chair
Irwin Kahn, Esq.	-	Public Arbitrator
Gilbert F. Bach, Sr., Esq.	-	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.

Donald Ferguson, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Irwin Kahn, Esq.
Public Arbitrator

6/17/02

Signature Date

Gilbert F. Bach, Sr., Esq.
Industry Arbitrator

Signature Date

June 27, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL

Donald Ferguson, Esq.	-	Public Arbitrator, Presiding Chair
Irwin Kahn, Esq.	-	Public Arbitrator
Gilbert F. Bach, Sr., Esq.	-	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.

Donald Ferguson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Irwin Kahn, Esq.
Public Arbitrator

Signature Date


Gilbert F. Bach, Sr., Esq.
Industry Arbitrator

June 18, 2002
Signature Date

June 27, 2002
Date of Service (For NASD office use only)