

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 01-01716

Michael S. Flanagan

Name of the Respondents

Hearing Site: Philadelphia, PA

Northeast Securities, Inc.
Stephen J. Perrone

REPRESENTATION OF PARTIES

Claimant, Michael S. Flanagan ("Flanagan"), hereinafter referred to as "Claimant": Harvey Pasternack, Esq., Pasternack and Associates, State College, Pennsylvania.

Respondents, Northeast Securities, Inc. ("Northeast") and Stephen J. Perrone ("Perrone"), hereinafter collectively referred to as "Respondents": Charles M. O'Rourke, Esq., Woodbury, New York.

CASE INFORMATION

Statement of Claim filed on: April 5, 2001

Claimant signed the Uniform Submission Agreement: March 23, 2001

Statement of Answer filed by Respondents on: June 18, 2001

Respondents did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action, among others: business defamation; improper use of confidential information; and, tortious and willful withholding of commissions. The causes of action relate to the order execution of assets held in New York Life's Mainstay variable annuity that were moved to the Allianz Powerhouse insurance annuity, a fixed annuity product.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: their conduct was in furtherance of enforcing its supervisory system mandated by law; truth is an absolute defense to defamation; statements made on Claimant's Form U-5 are privileged; Statement of Claim fails to state a claim upon which relief can be granted; and, Claimant is not entitled to the equitable relief sought by the doctrine of unclean hands.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 1,000,000.00
Punitive Damages	\$ 750,000.00
Attorney's Fees	unspecified

Claimant also requested the following:

that the U-5 issued by Respondents be rescinded and that the cause of termination be shown as voluntary termination; that Claimant be permitted to voluntarily resign from Northeast Securities; unspecified legal fees; temporary and permanent injunction prohibiting Respondents from contacting the customers, Garrens; and, an accounting of commissions held by Northeast Securities from September 19, 2000 through February 1, 2001.

Respondents requested that all claims be dismissed in their entirety and that an award of attorney's fees, costs, and forum fees be entered.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents filed a Motion to Disqualify Claimant's Counsel based on the "Witness Advocate" rule, which was denied.

Respondents did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, 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 counter-part copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, 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. That Claimant's claim for compensatory damages is denied in its entirety;
2. That Claimant's claim for punitive damages is denied in its entirety;
3. That Claimant's claim for legal fees is denied in its entirety;
4. That the parties shall bear their respective costs, including attorney's fees, except as to Fees specifically addressed below; and,
5. That any and all claims not specifically addressed herein are denied in their entirety.

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	= \$ 500
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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. Accordingly, Northeast Securities is a party.

Member surcharge	= \$ 2,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$ 4,500

Forum Fees and Assessments

The Panel has assessed forum 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 @ \$ 1200	= \$ 1,200
Pre-hearing conference: October 31, 2001 1 session	

Four (4) Hearing sessions @ \$ 1200	= \$ 4,800
Hearing Dates: April 30, 2002 2 sessions	
May 1, 2001 2 sessions	

Total Forum Fees	= \$ 6,000
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1. The Panel has assessed \$ 3,000 of the forum fees to Claimant.
2. The Panel has assessed \$ 3,000 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500
Forum Fees	= \$ 3,000
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Total Fees	= \$ 3,500
Less payments	= \$ 1,700
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,800

2. Respondent Northeast Securities is solely liable for:

Member Fees = \$ 7,600

Total Fees = \$ 7,600

Less payments = \$ 7,600

Balance Due NASD Dispute Resolution, Inc. = \$ 0

3. Respondents Northeast Securities and Perrone are jointly and severally liable for:

Forum Fees = \$ 3,000

Total Fees = \$ 3,000

Less payments = \$ 0

Balance Due NASD Dispute Resolution, Inc. = \$ 3,000

All balances are payable to NASD Dispute Resolution, Inc. and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Rafael A. Porrata-Doria, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
James A. Jennings, Esq.	-	Public Arbitrator, Panelist
William Z. Suplee, III	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Rafael A. Porrata-Doria, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

James A. Jennings, Esq.
James A. Jennings, Esq.
Public Arbitrator, Panelist

June 7, 2002
Signature Date

William Z. Suplee, III
Non-Public Arbitrator, Panelist

Signature Date

6/7/02
Date of Service (For NASD Dispute Resolution office use only)

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