

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Edward M. Nagle and Antoinette Nagle, (Claimants) vs. Peter J. DiGangi, (Respondent)

Case Number: 01-01870

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Edward M. Nagle ("E. Nagle") and Antoinette Nagle ("A. Nagle"), hereinafter collectively referred to as "Claimants", appeared *pro se*.

Respondent, Peter J. DiGangi, hereinafter referred to as "Respondent": David J. Campbell, Esq., Bressler, Amery & Ross, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 12, 2001.

E. Nagle signed the Uniform Submission Agreement: June 24, 2001.

A. Nagle signed the Uniform Submission Agreement: June 24, 2001.

Statement of Answer filed by Respondent on or about: September 4, 2001.

Respondent signed the Uniform Submission Agreement: November 29, 2001.

CASE SUMMARY

Claimants asserted the following cause of action: Respondent recommended an annuity which did not meet the Claimants' needs as explained to Respondent.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; Respondent acted in good faith and without malice or reckless indifference to Claimants; Claimants have failed to mitigate any alleged damages and therefore their claim for damages is barred or reduced *pro tanto*; Claimants are not entitled to punitive damages; Respondent did not breach any duty to Claimants imposed by operation of law or contract; Claimant's injuries or damages are due to the acts or omissions of third parties over which Respondent had no control or right to control; and Claimants were negligent and their negligence contributed to their alleged damages.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$6,712.56, punitive damages in the amount of \$9,200.00, and lost interest at the rate of 8%.

Respondent requested that Claimants' claim be dismissed, with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Rule 10302 of the NASD Code of Arbitration Procedure, the parties agreed that this matter would be decided solely upon the pleadings and documentary evidence.

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 and the documentary evidence, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent be and hereby is liable for and shall pay to Claimants the sum of \$6,712.56 as compensatory damages, plus interest in the amount of \$8,600.00.
2. Claimants' request for punitive damages is hereby denied.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$125.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. 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	= \$ 125.00
--------------------------	-------------

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, Chase Investment Services Corp. ("Chase") is the Respondent's firm.

Member surcharge = \$ 400.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00

Pre-hearing conferences: January 8, 2002 1 session
 February 6, 2002 1 session

Total Forum Fees = \$ 900.00

The Arbitrator has assessed all of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 125.00
<u>Total Fees</u>	= \$ 125.00
<u>Less payments</u>	= \$ 575.00
<u>Refund Due Claimant</u>	= \$ 450.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$125.00 filing fee.

2. Respondent be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 900.00
<u>Total Fees</u>	= \$ 900.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 900.00

NASD Dispute Resolution, Inc.
Arbitration No. 01-01870
Award Page 4

3. Chase be and hereby is solely liable for:

<u>Member Fees</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 400.00
<u>Less payments</u>	= \$ 400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

ARBITRATION PANEL

Ann J. Pinciss, Esq. - Public Arbitrator

Arbitrator's Signature

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.

Ann J. Pinciss, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

Ann J. Pinciss, Esq.

- Public Arbitrator

Arbitrator's Signature

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.



Ann J. Pinciss, Esq.
Public Arbitrator

4.19.02
Signature Date

April 25, 2002
Date of Service (For NASD office use only)