

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Sol and Fannie Wainer,
by their Attorney-in-Fact, David Wainer

and

Case Number: 02-05494
Hearing Site: Southfield, Michigan

Names of Respondents

Comerica Securities, Inc. and
Victor Whang

NATURE OF CASE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Sol and Fannie Wainer ("Claimants"), by their Attorney-in-Fact, David Wainer as attorney-in-fact was represented by Philip L. Sternberg, Esq., Couzens, Lansky, Fealk, Ellis, Roeder & Lazar, P.C., Farmington Hills, Michigan.

Comerica Securities, Inc. ("Comerica") and Victor Whang ("Whang"), hereinafter referred to as "Respondents," were represented by Donald M. Meyers, and Michael P. Coakley, Esq., Miller, Canfield, Paddock and Stone, P.L.C., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about September 16, 2002. The Submission Agreement of Claimant Sol and Fannie Wainer by David Wainer, their Attorney-in-Fact, was signed on or about August 28, 2002, by David Wainer.

Statement of Answer was filed by Respondents Comerica and Wang on or about November 25, 2002. The Submission Agreement of Respondent Comerica Securities, Inc. was signed on or about April 1, 2003, by Ron DiCicco. The Submission Agreement of Respondent Victor Whang was signed on or about April 7, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: negligence, breach of contract, breach of fiduciary duty, and fraud/innocent misrepresentation. The causes of action relate to Claimants' allegations that Respondents coerced them into cashing in their savings bonds and investing the proceeds into fixed annuity contracts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, Claimants are estopped by their conduct from asserting any and all claims alleged in the Statement of Claim, Claimants have, by their conduct, waived any claims, and Claimants assumed the risks of the transactions and investments that they made through Respondents.

RELIEF REQUESTED

Claimants requested an award in the amount of \$120,000.00 in compensatory damages, plus punitive/exemplary damages, interest, forum fees, attorney fees, and other unspecified costs.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded their costs, attorneys' fees, and such other relief as the Panel deemed equitable and just.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, Comerica Securities, Inc., and Victor Whang, are jointly and severally liable for and shall pay to Claimants, Sol and Fannie Wainer, by their attorney-in-fact, David Wainer, the sum of \$56,986.00 in compensatory damages;
- 2.) Respondents, Comerica Securities, Inc., and Victor Whang, are jointly and severally liable for and shall pay to Claimants, Sol and Fannie Wainer, by their attorney-in-fact, David Wainer, interest at the rate of 6% per annum on the above-stated sum from and including March 15, 2000, through and including September 26, 2003;
- 3.) Respondents, Comerica Securities, Inc., and Victor Whang, are jointly and severally liable for and shall pay to Claimants, Sol and Fannie Wainer, by their attorney-in fact, David Wainer, the sum of \$300.00 as reimbursement for fees retained by NASD;

- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 300.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Comerica Securities, Inc.

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$1,125.00		= \$ 1,125.00
Pre-hearing conference: March 31, 2003	1 session	
Six (6) Hearing sessions x \$1,125.00		= \$ 6,750.00
Hearing Dates: September 24, 2003	2 sessions	
September 25, 2003	2 sessions	
September 26, 2003	2 sessions	
Total Forum Fees		= \$ 7,875.00

The Arbitration Panel has assessed \$7,875.00 of the forum fees jointly and severally to Comerica Securities, Inc. and Victor Whang.

Fee Summary

Claimants, Sol and Fannie Wainer, by their attorney-in-fact, David Wainer, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

Respondent, Comerica Securities, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Comerica Securities, Inc. and Victor Whang, are jointly and severally liable for:

Forum Fees	= \$ 7,875.00
Total Fees	= \$ 7,875.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,875.00

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

ARBITRATION PANEL

Patrick R. Sughrue, Esq. - Public Arbitrator, Presiding Chair
Barbara A. Johannessen, Esq. - Public Arbitrator
Alfred B. Moran - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Patrick R. Sughrue, Esq.
Patrick R. Sughrue, Esq.
Public Arbitrator, Presiding Chair

10/17/03
Signature Date

/s/ Barbara A. Johannessen, Esq.
Barbara A. Johannessen, Esq.
Public Arbitrator

10/20/03
Signature Date

/s/ Alfred B. Moran
Alfred B. Moran
Non-Public Arbitrator

10/16/03
Signature Date

10/20/03
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-05494
Award Page 4 of 4

Fee Summary

Claimants, Sol and Fannie Wainer, by their attorney-in-fact, David Walner, are jointly and severally liable for:

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Total Fees	= \$ 300.00
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Concurring Arbitrators:

Patrick R. Sughrue, Esq.
Public Arbitrator, Presiding Chair


Barbara A. Johannessen, Esq.
Public Arbitrator

Signature Date

20 OCTOBER 2003
Signature Date

Alfred B. Moran
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-05494
Award Page 4 of 4

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Public Arbitrator, Presiding Chair

Signature Date

Barbara A. Johannessen, Esq.
Public Arbitrator

Signature Date


Alfred B. Moran
Non-Public Arbitrator


Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-05484
Award Page 4 of 4

Fee Summary

Claimants, Sol and Fannie Walner, by their attorney-in-fact, David Wainer, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
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