

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Ronald L. Edwards (Claimant) v. Ehrenkrantz King Nussbaum, Inc. and Dimitrios (Jimmy) Aivaliotis (Respondents)

Case Number: 02-06046

Hearing Site: Cincinnati, Ohio

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimant Ronald L. Edwards ("Edwards") hereinafter referred to as "Claimant":  
Michael R. Schmidt, Esq., Cohen, Todd, Kite, & Stanford, LLC.; Cincinnati, OH.

Respondents Ehrenkrantz King Nussbaum, Inc. ("EKN") and Dimitrios (Jimmy) Aivaliotis ("Aivaliotis") hereinafter collectively referred to as "Respondents": Robert M. Bursky, Esq., Garden City, NY. Previously represented by: Michael P. Gilmore, Esq., Sims Moss Kline & Davis, LLP, Mineola, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: October 4, 2002.

Claimant signed the Uniform Submission Agreement: October 3, 2002.

Joint Statement of Answer filed by Respondents on or about: December 19, 2002.

EKN did not sign the Uniform Submission Agreement.

Aivaliotis did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; failure to execute; and failure to follow instructions. Claimant's claim involved shares of Coventry Health Care (CVH).

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested \$75,492.81, plus interest at the statutory rate, and costs.

Respondents requested that the claims be dismissed against them; that they be awarded costs; that all forum and other fees be assessed against Claimant; and for such other and further relief as the Panel deems appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

The parties accepted the composition of the Panel which was made up of three public arbitrators.

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 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. Respondents are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$18,896.00, plus interest at the rate of 10% per annum according to Ohio law beginning June 25, 2002 through the date of payment of the award.
2. Any and all relief not specifically addressed herein is denied.

### **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	= \$225.00
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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. Accordingly, Ehrenkrantz King Nussbaum, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

August 19 and 20, 2003, adjournment by Respondents	= \$750.00
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**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 @ \$750.00	= \$1,500.00
Pre-hearing conferences: May 7, 2003	1 session
October 22, 2003	1 session

Two (2) Hearing sessions @ \$750.00	= \$1,500.00
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Hearing Date: January 28, 2004	2 sessions
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Total Forum Fees	= \$3,000.00
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1. The Panel has assessed \$1,500.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,500.00 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,500.00
Total Fees	= \$1,725.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 750.00

2. EKN is solely liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 750.00
Forum Fees	= \$1,500.00
Total Fees	= \$2,250.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$1,500.00

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

Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
David W. Stanton, Esq.	-	Public Arbitrator
Thomas H. Schumann	-	Public 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.

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Bill Swinford, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

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David W. Stanton, Esq.  
Public Arbitrator

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Signature Date

  
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Thomas H. Schumann  
Public Arbitrator

2/25/04  
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Signature Date

February 25, 2004

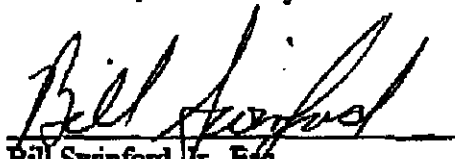
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Date of Service (For NASD Dispute Resolution use only)

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