

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Melvyn M. Nizny, MD, Individual IRA Rollover and Cincinnati Center for Psychoanalysis PEN/PS Plans f/b/o Melvyn M. Nizny, MD (Claimants) v. Edward T. Kennedy and The Sachs Company (Respondents)

Case Number: 02-06374

Hearing Site: Cincinnati, Ohio

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

REPRESENTATION OF PARTIES

Claimant Melvyn M. Nizny, MD, Individual IRA Rollover ("Nizny IRA") and Cincinnati Center for Psychoanalysis PEN/PS Plans f/b/o Melvyn M Nizny, MD ("Nizny PEN/PS Plans") hereinafter collectively referred to as "Claimants": Richard S. Wayne, Esq., Strauss & Troy, LPA, Cincinnati, OH.

Respondent Edward T. Kennedy ("Kennedy"): Gerald W. Simmons, Esq., Thompson Hine, LLP, Cincinnati, OH.

Respondent The Sachs Company ("Sachs"): Mark W. Dobbins, Esq. and William J. Walsh, Esq., Tilford, Dobbins & Alexander, Buckaway & Black, LLP, Louisville, KY. Previously represented by: Gerald W. Simmons, Esq., Thompson Hine, LLP, Cincinnati, OH.

CASE INFORMATION

Statement of Claim filed on or about: October 21, 2002.

Claimants signed the Uniform Submission Agreement: October 17, 2002.

Joint Statement of Answer filed by Respondents Kennedy and Sachs, hereinafter collectively referred to as "Respondents", on or about: November 25, 2002.

Kennedy signed the Uniform Submission Agreement: November 1, 2002.

Sachs signed the Uniform Submission Agreement: October 6, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; violation of Rules of Fair Practice; negligence; negligent supervision; and breach of fiduciary duty. Claimants' claim involved Qualcomm stock, National City Corp. stock, North Fork Bancorporation, Inc., Level 3 Bonds, and other unspecified securities.

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

RELIEF REQUESTED

Claimants requested compensatory damages of not less than \$2,700,000.00, plus costs, reasonable attorneys' and expert witness fees, and such other relief as the Panel deems appropriate.

Respondents requested that the Statement of Claim be dismissed with prejudice at Claimants' costs herein and for such other and further orders as may be just and proper.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Respondents' request for attorneys' fees is denied.
3. 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 = \$500.00

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. Accordingly, The Sachs Company is a party.

Member surcharge = \$2,800.00

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

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:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
---	--------------

Pre-hearing conference: April 21, 2003	1 session
--	-----------

Six (6) Hearing sessions @ \$1,200.00	= \$7,200.00
---------------------------------------	--------------

Hearing Dates:	December 16, 2003	2 sessions
	December 17, 2003	2 sessions
	December 18, 2003	2 sessions

Total Forum Fees	= \$8,400.00
------------------	--------------

1. The Panel has assessed \$4,200.00 of the forum fees jointly and severally against Claimants.

2. The Panel has assessed \$4,200.00 of the forum fees jointly and severally against Respondents Kennedy and Sachs.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Kennedy requested photocopies	= \$5.75
----------------------------------	----------

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$4,200.00
Total Fees	= \$4,700.00
Less payments	= \$1,700.00
Balance Due NASD Dispute Resolution	= \$3,000.00

2. Sachs is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
Less payments	= \$8,550.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Kennedy is solely liable for:

<u>Administrative Costs</u>	= \$ 5.75
<u>Total Fees</u>	= \$ 5.75
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5.75

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$4,200.00
Balance Due NASD Dispute Resolution	= \$4,200.00

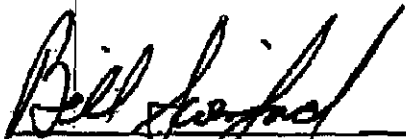
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Raymond Nardo	-	Public Arbitrator
Robert Economou	-	Non-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.



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

3-11-04

Signature Date

Raymond Nardo
Public Arbitrator

Signature Date

Robert Economou
Non-Public Arbitrator

Signature Date

March 17, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

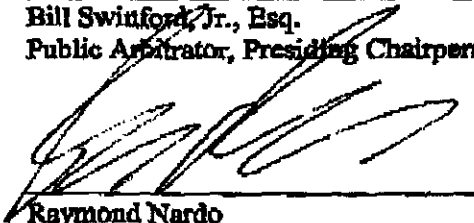
Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Raymond Nardo	-	Public Arbitrator
Robert Economou	-	Non-Public Arbitrator

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.

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

Signature Date



Raymond Nardo
Public Arbitrator

3/15/04

Signature Date

Robert Economou
Non-Public Arbitrator

Signature Date

March 17, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Bill Swinford, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Raymond Nardo	-	Public Arbitrator
Robert Economou	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

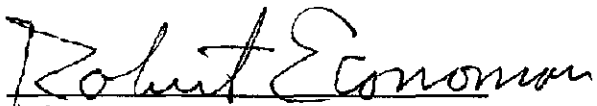
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

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

Signature Date

Raymond Nardo
Public Arbitrator

Signature Date



Robert Economou
Non-Public Arbitrator

3-12-04

Signature Date

March 17, 2004

Date of Service (For NASD Dispute Resolution use only)