

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James and Janet Pfuelb (Claimants) v. Advest, Inc., Edward Carlsen, Sr., and Roger Faulring (Respondents)

Case Number: 02-07283

Hearing Site: Buffalo, New York

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

REPRESENTATION OF PARTIES

Claimants James and Janet Pfuelb ("The Pfuelbs") hereinafter collectively referred to as "Claimants": Donald G. McGrath, Esq., McGrath & Polvino, PLLC, Williamsville, NY.

Respondents Advest, Inc. ("Advest"), Edward Carlsen, Sr. ("Carlsen"), and Roger Faulring ("Faulring") hereinafter collectively referred to as "Respondents": Paul K. Stecker, Esq., Phillips, Lytle, Hitchcock, Blaine & Huber, LLP, Buffalo, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 2, 2002.

Claimants each signed the Uniform Submission Agreement: September 30, 2002.

Joint Statement of Answer filed by Respondents on or about: February 27, 2003.

Respondent Advest signed the Uniform Submission Agreement: December 27, 2002.

Respondent Carlsen signed the Uniform Submission Agreement: February 26, 2003.

Respondent Faulring signed the Uniform Submission Agreement: February 26, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: excessive commissions; unauthorized trading; unsuitability; failure to follow instructions; engaging in deceptive acts and practices; breach of contract; breach of fiduciary duty; violations of federal and state securities laws; violations of state consumer protection laws; violations of the rules and regulations of NASD and various exchanges; and failure to supervise. Claimants' claim involved shares of Avanex, Broadvision, EMC, Foundry Networks, JDS Uniphase, and Jupiter Networks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$387,017.40; excessive commissions in the amount of \$20,244.00; appropriate earnings and appreciation; punitive damages; costs, expenses, and disbursements, including reasonable attorneys' fees pursuant to New York General Business Law Section 349; and such other and further relief as the arbitration panel deems just and proper.

Respondents requested that the panel dismiss the Statement of Claim and award them the costs of this proceeding.

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, 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 Claimants compensatory damages in the amount of \$125,000.00.
2. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$300.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, Advest, Inc. is a party.

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

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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: October 7, 2003 1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: May 4, 2004 2 sessions	
May 5, 2004 2 sessions	
May 6, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$7,875.00

1. The Panel has assessed \$3,937.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$3,937.50 of the forum fees jointly and severally against Respondents.

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. Claimants requested duplication of hearing tapes = \$165.00

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,937.50
<u>Administrative Costs</u>	<u>= \$ 165.00</u>
Total Fees	= \$4,402.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$2,977.50
2. Respondent Advest is liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally liable for:

NASD Dispute Resolution

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Forum Fees	= \$3,937.50
Total Fees	= \$3,937.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,937.50

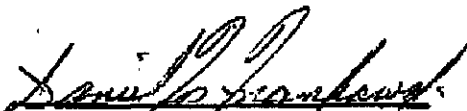
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Daniel M. Mankowski	-	Public Arbitrator, Presiding Chair
John P. DeLuca	-	Public Arbitrator
Michael P. Hennigan	-	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.


Daniel M. Mankowski
Public Arbitrator, Presiding Chairperson


Signature Date

John P. DeLuca
Public Arbitrator

Signature Date

Michael P. Hennigan
Non-Public Arbitrator

Signature Date

May 20 2004

Date of Service (For NASD Dispute Resolution use only)

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John P. DeLuca	-	Public Arbitrator
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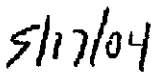
Signature Date

John P. DeLuca
Public Arbitrator

Signature Date



Michael P. Hennigan
Non-Public Arbitrator



Signature Date

May 20, 2004

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