

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Case Number: 03-00214

Christine Mustazza,
Vivian Mustazza,
And Estate of Peter Mustazza

Hearing Site: New York, New York

Respondents

RBC Dain Rauscher Inc.,
John Micera, and James Cashman

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

REPRESENTATION OF PARTIES

Claimants Christine Mustazza ("C. Mustazza"), Vivian Mustazza ("V. Mustazza"), and Estate of Peter Mustazza ("Estate") hereinafter collectively referred to as "Claimants": Eric Belfi, Esq., Rabin, Murray & Frank, LLP, New York, NY.

Respondents RBC Dain Rauscher Inc. ("Dain"), John Micera ("Micera") and James Cashman ("Cashman") hereinafter collectively referred to as "Respondents": Matthew Farley, Esq., Drinker Biddle & Reath, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 9, 2003.

Amended Statement of Claim filed on or about: August 12, 2003.

Claimant C. Mustazza signed the Uniform Submission Agreement: December 9, 2002.

Claimant V. Mustazza did not sign the Uniform Submission Agreement.

Claimant Estate did not sign the Uniform Submission Agreement.

Joint Statement of Answer filed on or about: April 3, 2003.

Respondent Dain signed the Uniform Submission Agreement: April 2, 2003.

Respondent Micera signed the Uniform Submission Agreement: February 27, 2003.

Respondent Cashman signed the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; misrepresentations; omissions; failure to follow instructions; violation of NASD Rules of Conduct; breach of fiduciary duty; and failure to supervise. Claimants' claim involved UITs, stocks, and equity mutual funds.

Respondents denied the allegations of wrongdoing as set forth in the Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the aggregate amount of approximately \$1,573,528.20, plus interest, attorneys' fees, and punitive damages.

Respondents requested that Claimants' claim be dismissed with prejudice and expungement of this claim from Respondents' CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing on or about November 4, 2004, the parties notified NASD Dispute Resolution that they fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties agreed that the Award in this matter may be executed in counterpart copies.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an award, the written stipulation thereto, the panel grants the motion and enters this award granting the following relief:

1. The listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents John Micera's and James Cashman's registration records maintained by NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondents John Micera and James Cashman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. The Parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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
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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. In this matter, RBC Dain Rauscher, Inc. is a party.

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$5,000.00
Total Member Fees	= \$8,550.00

Adjournment Fees

The following adjournment fees are assessed:

April 26-30, 2004, adjournment requested Claimants	= Waived
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Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

November 8-10, 18-19, 2004 settled by parties	= \$300.00
Claimants' share	= \$150.00
Respondents' share	= \$150.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: February 18, 2004 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$2,400.00

Pre-hearing conferences: November 13, 2003 1 session

April 14, 2004 1 session

Total Forum Fees = \$2,850.00

1. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimants have jointly and severally been assessed \$1,425.00 of the forum fees.
2. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondents have jointly and severally been assessed \$1,425.00 of the forum fees.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 500.00

Three Day Cancellation Fee = \$ 150.00

Forum Fees = \$1,425.00

Total Fees = \$2,075.00

Less payments = \$1,700.00

Balance Due NASD Dispute Resolution = \$ 375.00

2. Respondent Dain 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. Respondents are jointly and severally liable for:

Three Day Cancellation Fees = \$ 150.00

Forum Fees = \$1,425.00

Total Fees = \$1,575.00

Less payments = \$ 500.00

Balance Due NASD Dispute Resolution = \$1,075.00


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

FEES

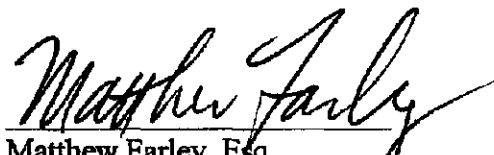
NASD Dispute Resolution will insert fees.

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

Parties' Signatures


Eric J. Belfi, Esq.
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Attorneys for the Claimants
Christine Mustazza,
Vivian Mustazza
And Estate of Peter Mustazza

November 3, 2004


Matthew Farley, Esq.
Drinker Biddle & Reath LLP
140 Broadway, 39th Floor
New York, New York 10005
(212) 248-3140
Attorneys for the Respondents
RBC Dain Rauscher Inc.,
John Micera and James Cashman

November 4, 2004

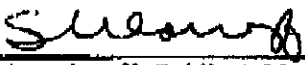
ARBITRATION PANEL

Hilda Boas	-	Public Arbitrator, Presiding Chair
Stanley Ulanoff	-	Public Arbitrator
Donald Delano	-	Industry Arbitrator

Concurring Arbitrators' Signature(s)

Hilda Boas, Public Arbitrator, Presiding Chair

Signature Date


Stanley Ulanoff, Public Arbitrator

11 Nov 04
Signature Date

Donald Delano, Industry Arbitrator

Signature Date

November 18, 2004

Date of Service (For NASD Dispute Resolution office use only)

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Hilda Boas	-	Public Arbitrator, Presiding Chair
Stanley Ulanoff	-	Public Arbitrator
Donald Delano	-	Industry Arbitrator

Concurring Arbitrators' Signature(s)

Hilda H. Boas
Hilda Boas, Public Arbitrator, Presiding Chair

11-12-04
Signature Date

Stanley Ulanoff, Public Arbitrator

Signature Date

Donald Delano, Industry Arbitrator

Signature Date

November 18, 2004

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