

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Florence R. Guerrieri

Case Number: 03-00626

Names of the Respondents
WM Financial Services
Michael A. Zapata
Robert A. Peck

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

Claimant Florence R. Guerrieri ("Guerrieri") appeared pro se.

For WM Financial Services ("WMFS"), Michael A. Zapata ("Zapata") and Robert A. Peck ("Peck"), hereinafter collectively referred to as "Respondents": John D. Mullen, Esq., Holland & Knight, LLP, Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 16, 2003.

Claimant signed the Uniform Submission Agreement: January 10, 2003.

Statement of Answer filed by Respondents on or about: March 17, 2003.

Respondent WMFS signed the Uniform Submission Agreement: March 17, 2003.

Respondents Zapata and Peck did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: 1) misrepresentation/non-disclosure; 2) omission of facts; 3) unsuitability; and 4) inappropriate sale. The causes of action relate to the purchase of mutual funds and certificates of deposit for Claimant's IRA account.

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$14,000.00, plus interest, punitive damages of \$11,000.00, forum fees, attorney's fees, witness and production fees and other case related costs. In addition, Claimant requested that any damages awarded be returned to a CD or IRA vehicle of her choice.

Respondents requested that all claims against them be dismissed. In addition, Respondents requested that all references to this matter be expunged from their registration records

maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Zapata and Peck did not file with NASD Dispute Resolution, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the undersigned arbitrator (the "Arbitrator") on all issues submitted.

The parties agreed at the initial pre-hearing conference on June 5, 2003 to dismiss Respondent Zapata from this matter and requested that the Arbitrator expunge all references to this matter from Respondent Zapata's registration records maintained by the NASD CRD.

On or about June 23, 2003, Claimant advised NASD Dispute Resolution that the matter should have been decided based upon the papers submitted by the parties without a hearing. Based upon this information, the Arbitrator entered an Order on July 9, 2003 agreeing to issue an Award based upon the written submissions of the parties and canceling the evidentiary hearing which had been previously scheduled.

AWARD

After considering the pleadings submitted by the parties, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Peck is liable on the claims of unsuitability and misrepresentation and shall pay to Claimant the sum of \$14,000.00 in compensatory damages, pre-judgment interest specifically excluded.
2. Claimant's claims against Respondent WMFS are denied in their entirety.
3. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.
4. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Zapata's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Zapata must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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:

The initial claim filing fee was preliminarily waived by the Director of Arbitration. The

Arbitrator made a final determination to waive the initial claim filing fee.

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, WMFS is a party.

Member surcharge = \$425.00

Adjournment Fees

No adjournments were granted during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: June 5, 2003	1 session

Total Forum Fees = \$450.00

The Arbitrator has assessed the total forum fees of \$450.00 to Respondent Peck.

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.

No administrative fees were incurred during this proceeding.

Fee Summary

Respondent WMFS is solely liable for:

<u>Member Fees</u>	<u>= \$425.00</u>
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Total Fees	= \$425.00
<u>Less payments</u>	<u>= \$425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Peck is solely liable for:

Forum Fees	= \$450.00
Total Fees	= \$450.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$450.00

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

ARBITRATOR

Monica I. Salis, Esq.

- *Public Arbitrator, Presiding Chairperson*

Arbitrator's Signature

/s/
Monica I. Salis, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

August 18, 2003

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

Total Fees	= \$425.00
<u>Less payments</u>	<u>= \$425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Peck is solely liable for:

Forum Fees	= \$450.00
Total Fees	= \$450.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$450.00

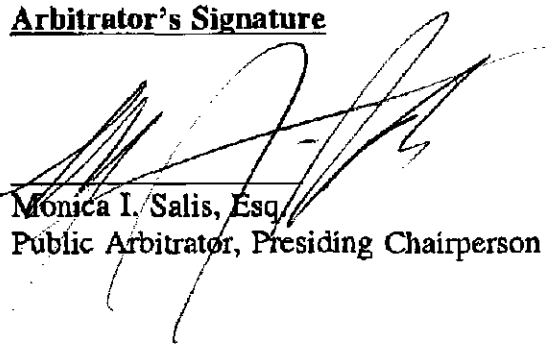
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Monica I. Salis, Esq.

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature



Monica I. Salis, Esq.
Public Arbitrator, Presiding Chairperson

8/14/03
Signature Date

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