
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Andrea Mannino
Josephine Mannino

Case Number: 03-01465

Name of the Respondent

21st Century Financial Services, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Andrea Mannino and Josephine Mannino, hereinafter collectively referred to as "Claimants": William J. Schifino, Jr., Esq. and Joseph T. King, Esq., Williams Schifino Mangione & Steady, P.A., Tampa, Florida.

For 21st Century Financial Services, Inc., hereinafter referred to as "Respondent": Burton W. Wiand, Esq., Peter B. King, Esq. and Matthew R. Parker, Esq., Fowler White Boggs Banker, P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 18, 2003.

Claimants signed the Uniform Submission Agreements: February 14, 2003.

Statement of Answer filed by Respondent on or about: June 2, 2003.

Respondent signed the Uniform Submission Agreement: July 14, 2003.

CASE SUMMARY

Claimants asserted the following causes of action against Respondent: violations of the Florida Securities and Investor Protection Act, common law negligence/negligent supervision, common law fraud and breach of fiduciary duty. The causes of action relate to the purchase of an American Skandia variable annuity as well as the purchase in Claimants' joint account of various equity mutual funds and common stocks, including the following: AIM Emerging Growth Fund Class A; Alliance Technology Fund, Inc. Class B; Blackrock Funds Micro Cap Fund Class B; Eaton Vance Tax Managed Growth Fund Class B; Franklin Floating Rate Trust; GE Funds Value Equity Fund Class B; Hancock John Sovereign Invs Class C; MFS Series Trust V Resh Fund Class B; Oppenheimer Quest for Value Fund Class C; Oppenheimer Global Growth & Income Class B and C; Pioneer Growth Shares Inc. Class B; Putnam Capital Appreciation Fund Class B; Seligman Communication & Information Fund Class D; America Online/AOL Time Warner; Citigroup, Inc.; Dell Computer; Independence Community Bank; Intel Corp.; Lucent Technologies/Avaya (spinoff); and, Syquest Technology, Inc.

Unless specifically admitted in its Answer, Respondent denied the allegations of wrongdoing contained in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$185,838.60, or, alternatively, a measure of damages pursuant to Section 517.211(4), Florida Statutes. Additionally, Claimants requested the following:

1. pre-award interest in the amount of \$18,583.86;
2. punitive damages in the amount of at least \$50,000.00;
3. a finding that Claimants were the prevailing party under Ch. 517, Florida Statutes, for a violation of Section 517.301, Florida Statutes, and are entitled to seek an award of attorneys' fees and costs from a Court of competent jurisdiction pursuant to Section 517.211(6), Florida Statutes; and,
4. such other relief deemed just and proper by the Panel.

Respondent requested that Claimants' claims be dismissed, with prejudice, and that it be awarded its attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 17, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about January 12, 2005, the parties filed with NASD Dispute Resolution a Joint Motion for Entry of Stipulated Award (To Include a Non-Party) and proposed Stipulated Award for review and approval by the Panel. On or about January 28, 2005, the Panel issued an Order granting the parties' Joint Motion for Entry of Stipulated Award and directing NASD Dispute Resolution to draft a finalized Stipulated Award for execution by the Panel. No other issues were considered or decided by the Panel concerning entry of the Stipulated Award.

The parties filed a notice of settlement with NASD Dispute Resolution within eight days of the first scheduled hearing date in this matter. The Panel determined that, pursuant to Rule 10332(f) of the Code, NASD Dispute Resolution shall retain one-half of the balance of Claimant's hearing session deposit, and shall assess the difference to Respondent.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies and that conformed copies of the Stipulated Award may be transmitted to the parties via facsimile or other means while the original(s) remain on file with NASD Dispute Resolution.

AWARD

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

1. Claimants have entered into a settlement agreement with Respondent. All claims against Respondent are hereby dismissed, with prejudice.

2. The Panel recommends that all references to the above-captioned arbitration be expunged from Respondent 21st Century Financial Services, Inc.'s and non-party Sergio Kindler's ("Kindler") registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent 21st Century Financial Services, Inc. and non-party Kindler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive
3. The parties shall bear their own costs, expenses, and attorneys' fees incurred in connection with this proceeding.
4. All other claims in this proceeding brought by any party are denied and dismissed, with prejudice.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

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|--------------------------|-------------|
| Initial claim filing fee | = \$ 300.00 |
|--------------------------|-------------|

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, Respondent is a member firm and a party:

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$2,750.00 |
| Total Member Fees | = \$5,200.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

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|---|--------------|
| August 23, 24, 25 and 26, 2004; adjournment by Respondent | = \$1,125.00 |
|---|--------------|

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.

The Panel has assessed a three-day cancellation fee of \$300.00 as follows:

\$150.00 to Claimants, jointly and severally
\$150.00 to Respondent

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 in this matter.

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:

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|---|--------------|
| One (1) Pre-hearing session with the Panel @ \$1,125.00/session | = \$1,125.00 |
| Pre-hearing conference: October 13, 2003 1 session | |

| | |
|------------------|--------------|
| Total Forum Fees | = \$1,125.00 |
|------------------|--------------|

Pursuant to the agreement of the parties, the Panel has assessed forum fees as follows:

\$562.50 to Claimants, jointly and severally
\$562.50 to Respondent

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 costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

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|---|----------------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 562.50 |
| Three-day Cancellation Fee | = \$ 150.00 |
| <u>Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code</u> | <u>= \$ 281.25</u> |
| Total Fees | = \$ 1,293.75 |
| <u>Less payments</u> | <u>= \$ 1,293.75</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondent is solely liable for:

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| Member Fees | = \$ 5,200.00 |
| Forum Fees | = \$ 562.50 |

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| Additional Forum Fees | = \$ 281.25 |
| Adjournment Fee | = \$ 1,125.00 |
| <u>Three-day Cancellation Fee</u> | <u>= \$ 150.00</u> |
| Total Fees | = \$ 7,318.75 |
| <u>Less payments</u> | <u>= \$ 5,200.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 2,118.75 |

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

ARBITRATION PANEL

| | | |
|---------------------------|---|--|
| Edward C. LaRose, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Reginald R. Garcia, Esq. | - | Non-Public Arbitrator |
| Alfred Brunette, Jr., CPA | - | Public Arbitrator |

Concurring Arbitrators' Signatures

/s/
Edward C. LaRose, Esq.
Public Arbitrator, Presiding Chairperson

February 7, 2005
Signature Date

/s/
Reginald R. Garcia, Esq.
Non-Public Arbitrator

February 7, 2005
Signature Date

/s/
Alfred Brunette, Jr., CPA
Public Arbitrator

February 4, 2005
Signature Date

February 8, 2005
Date of Service (For NASD Dispute Resolution office use only)

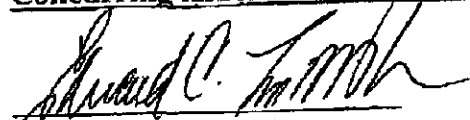
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2/7/05

Signature Date

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NASD Dispute Resolution

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