

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Ali A. Esfahani, M.D.

and

Case Number: 03-01861
Hearing Site: Southfield, Michigan

Respondent

Kopp Investment Advisors, Inc.

NATURE OF DISPUTE

Customer v. Non-Member

REPRESENTATION OF PARTIES

Ali A. Esfahani, M.D. ("Claimant") was represented by Anthony R. Paesano, Esq., Beals Hubbard PLC, Farmington Hills, Michigan as of on or about August 12, 2004. Claimant was represented by Gary M. Saretsky, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan, until on or about May 21, 2004.

Kopp Investment Advisors, Inc. ("Respondent") was represented by Steven M. Phillips, Esq., Anthony Ostlund & Baer, P.A., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about March 17, 2004. The Submission Agreement of Ali A. Esfahani, M.D. was signed on or about March 10, 2003.

The Statement of Answer was filed by Kopp Investment Advisors, Inc., on or about August 10, 2003. The Submission Agreement of Kopp Investment Advisors, Inc., was signed on or about August 7, 2003, by LeRoy C. Kopp, President.

Respondent filed a Motion to Dismiss, Exclude Expert Damages and for Sanctions, on or about April 28, 2005. Claimant filed a Response to the Motion on or about May 2, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: violations of NASD and NYSE rules; violation of the Securities Exchange Act of 1923, § 10(b) and Rule 10b-5 promulgated thereunder; liability under the provisions of the Michigan Uniform Securities Act, MCL

451.01 et. seq.; breach of contract; breach of fiduciary duties; and liability under the doctrines of negligent supervision, control person liability and respondeat superior. The causes of action related to Claimant's allegations that Respondent concentrated his accounts in unspecified high risk emerging technology holdings with limited track records. Claimant asserted that these high tech stocks were inconsistent with his investment objectives and risk tolerance. Claimant further alleged that his accounts were not properly diversified.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant fails to state a claim upon which relief may be granted; Claimant's claims are barred, in whole or in part, by the applicable statutes of limitation and/or repose, and by the doctrine of laches; and Claimant expressly approved and ratified the acts and transactions complained of and upon which recovery is sought, and is thus precluded from any recovery under the doctrines of ratification and waiver.

RELIEF REQUESTED

Claimant requested an award in an unspecified amount, plus attorneys' fees, costs, and other relief as the panel deemed proper.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs, attorneys' fees, and other relief as the panel deemed proper.

OTHER ISSUES CONSIDERED & DECIDED

The panel denied Respondent's Motion to Dismiss the Case, Exclude Expert Damages Testimony, and for Sanctions at the hearing.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each

bear their own costs and expenses incurred in this matter; and

- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

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 = \$ 250.00

Forum Fees and Assessments

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

Three (3) Pre-hearing session with a single arbitrator x \$450.00 = \$ 1,350.00

Pre-hearing conferences: January 31, 2005 1 session
April 15, 2005 1 session
May 5, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,000.00 = \$ 1,000.00

Pre-hearing conference: September 27, 2004 1 session

Eight (8) Hearing sessions x \$1,000.00 = \$ 8,000.00

Hearing Dates: May 9, 2005 2 sessions
May 10, 2005 2 sessions
May 11, 2005 2 sessions
May 12, 2005 2 sessions

Total Forum Fees = \$10,350.00

The Arbitration Panel has assessed \$5,175.00 of the forum fees to Ali A. Esfahani, M.D.

The Arbitration Panel has assessed \$5,175.00 of the forum fees to Kopp Investment Advisors, Inc.

Fee Summary

Claimant, Ali A. Esfahani, M.D., is liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 5,175.00
<u>Total Fees</u>	<u>= \$ 5,425.00</u>
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,175.00

Respondent, Kopp Investment Advisors, Inc., is liable for:

Forum Fees	= \$ 5,175.00
<u>Total Fees</u>	<u>= \$ 5,175.00</u>
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,175.00

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

ARBITRATION PANEL

Robert J. Scafuri, Esq. - Public, Presiding Chair
Robert F. Fearon - Public Arbitrator
Kenneth Rochlen - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Robert J. Scafuri, Esq.
Robert J. Scafuri, Esq.
Public Arbitrator, Presiding Chair

06/01/05
Signature Date

/s/ Robert F. Fearon
Robert F. Fearon
Public Arbitrator

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/s/ Kenneth Rochlen
Kenneth Rochlen
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06/01/05
Date of Service (For NASD office use only)

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