

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Margaret K. White (Claimant) v. HSBC Brokerage (USA) Inc., ALFS, Inc., and John C. Chiarenza (Respondents)

Case Number: 03-01941

Hearing Site: Buffalo, New York

Nature of the Dispute: Customer vs. Members and Associated Person.

REPRESENTATION OF PARTIES

Claimant Margaret K. White ("White") hereinafter referred to as "Claimant" appeared *pro se*. Previously represented by: Donald G. McGrath, Esq. and Andrea R. Polvino, Esq., McGrath & Polvino, PLLC, Williamsville, NY.

Respondents HSBC Brokerage (USA) Inc. ("HSBC") and John C. Chiarenza ("Chiarenza"): Scott D. Miller, Esq., HSBC Brokerage (USA) Inc., Buffalo, NY.

Respondent ALFS, Inc. ("ALFS"): Amy E. Rush, Esq., Sonnenschein Nath & Rosenthal, LLP, Kansas City, MO.

HSBC, Chiarenza, and ALFS are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: March 17, 2003.

Claimant signed the Uniform Submission Agreement: March 8, 2003.

Statement of Answer filed by Respondents HSBC and Chiarenza on or about: June 4, 2003.

Respondent HSBC signed the Uniform Submission Agreement: May 27, 2003.

Respondent Chiarenza signed the Uniform Submission Agreement: May 29, 2003.

Statement of Answer filed by Respondent ALFS on or about: June 4, 2003.

Respondent ALFS signed the Uniform Submission Agreement: June 3, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise; breach of contractual and legal duties; suitability; and failure to provide competent, professional services. The causes of action relate to AIM Lifetime Plus Annuity.

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

Unless specifically admitted in its Answer, Respondent ALFS denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$215,904.75; interest in the amount of \$28,255.87 from November 2001 to March 2003; appropriate earnings and appreciation; punitive damages; costs, expenses, and disbursements, including reasonable attorneys' fees, pursuant to New York General Business Law §349; and such other and further relief as the Panel deems just and proper.

Respondents HSBC and Chiarenza requested that the Panel dismiss with prejudice the complaint against them, and costs, attorneys' fees, and expenses.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 12, 2004, Respondents filed motions to dismiss. Claimant did not submit a response to the motions. On or about November 4, 2004, the Panel granted the motions to dismiss and dismissed this matter without prejudice, upon a showing of Claimant's inability to proceed for medical or other reasons.

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 motions to dismiss, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety, without prejudice permitting Claimant to re-commence this action only upon a satisfactory showing, by either medical reasons or extraordinary circumstances that establish the Claimant's inability to proceed at the present time.
2. Any and all relief not specifically addressed herein 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

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, HSBC Brokerage (USA) Inc. is a party.

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

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, ALFS, 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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: January 5, 2004 1 session	
August 23, 2004 1 session	
<hr/> Total Forum Fees	<hr/> = \$2,250.00

1. The Panel has assessed \$1,125.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,425.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent HSBC is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent ALFS is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$4,200.00
Balance Due NASD Dispute Resolution	= \$1,000.00

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,125.00
<u>Total Fees</u>	= \$1,125.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

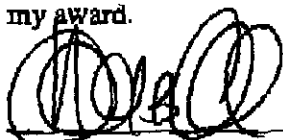
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Howard B. Cohen, Esq.	-	Public Arbitrator, Presiding Chairperson
Richard J. Lehner	-	Public Arbitrator
Anthony Vitanza	-	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.



Howard B. Cohen, Esq.
Public Arbitrator, Presiding Chairperson

11-10-04
Signature Date

Richard J. Lehner
Public Arbitrator

Signature Date

Anthony Vitanza
Non-Public Arbitrator

Signature Date

November 19, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Howard B. Cohen, Esq.	-	Public Arbitrator, Presiding Chairperson
Richard J. Lehner	-	Public Arbitrator
Anthony Vitanza	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

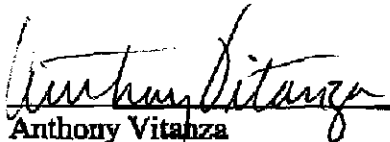
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Howard B. Cohen, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Richard J. Lehner
Public Arbitrator

Signature Date



Anthony Vitanza
Non-Public Arbitrator

Signature Date

November 19, 2004
Date of Service (For NASD Dispute Resolution use only)