

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimant

Poske Automotive Inc., Employee Profit
Sharing Trust by David Hutchinson, its Trustee

and

Case Number: 03-02589
Hearing Site: Detroit, Michigan

Respondents

Comerica Securities, Inc.,
and Peter J. Neary

NATURE OF CASE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Poske Automotive Inc., Employee Profit Sharing Trust by David Hutchinson, its Trustee ("Claimant") was represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Anthony V. Trogan PLLC, West Bloomfield, Michigan.

Comerica Securities, Inc. ("Comerica") and Peter J. Neary ("Neary"), hereinafter collectively referred to as "Respondents," were represented by Donald W. Meyers, Esq., Miller Canfield Paddock and Stone, P.L.C., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about April 10, 2003. The Submission Agreement of Poske Automotive Inc., Employee Profit Sharing Trust by David Hutchinson, its Trustee, was signed on or about February 28, 2003, by David Hutchinson.

The Statement of Answer was filed jointly by Comerica and Neary on or about June 13, 2003. The Submission Agreement of Comerica Securities, Inc., was signed on or about October 14, 2003. The Submission Agreement of Peter J. Neary was signed on or about October 10, 2003.

CASE SUMMARY

Claimant asserted the following legal theories in support of his claims: breach of contract; common law fraud; promissory estoppel; negligence; malpractice; breach of fiduciary duty;

and breach of Michigan securities law. The causes of action related to Claimant's allegations that Respondents moved Claimant's funds out of cash products and into high risk, speculative investments including Munder International Net Net Class A and Munder Future Technology Class A without Claimant's approval or knowledge.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted; Claimant is estopped by its conduct from asserting any and all claims alleged in the Statement of Claim; and Claimant assumed the risks of the transactions and investments that it made through Respondents.

RELIEF REQUESTED

Claimant requested an award in the amount of \$53,000.00, plus interest, costs, attorneys' fees, punitive and exemplary damages, rescission, and additional damages as allowed by the panel.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees. Respondent Neary requested that all references to this matter be expunged from his CRD records.

OTHER ISSUES CONSIDERED & DECIDED

Claimant, having had an opportunity to review the records and documents produced in prehearing discovery and discuss the contents thereof with its counsel, stipulated and agreed with Respondents to the expungement of all reference to the above-captioned arbitration from all registration records of Peter J. Neary maintained by the NASD Central Registration Depository ("CRD")

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 the NASD Dispute Resolution (the "NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims, having been withdrawn, are 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;

- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Peter J. Neary's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Neary must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 5.) Any relief not specifically enumerated, including punitive damages and attorney 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 = \$ 225.00

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. In this matter, the member firm is Comerica Securities, Inc.

Member surcharge = \$ 1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 1,700.00

Adjournment Fees

Adjournments requested during these proceedings:

April 26-27, 2004 adjournment requested by Comerica (waived by panel) = \$ 750.00

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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
Pre-hearing conferences: March 1, 2004	1 session
July 1, 2004	1 session

Two (2) Pre-hearing sessions with Panel x \$750.00	= \$ 1,500.00
Pre-hearing conferences: November 4, 2003	1 session
November 11, 2003	1 session

One (1) Hearing session with Panel x \$750.00	= \$ 750.00
Hearing Date: July 13, 2004	1 session
Total Forum Fees	= \$ 3,150.00

The Arbitration Panel has assessed \$1,200.00 of the forum fees to Poske Automotive Inc., Employee Profit Sharing Trust by David Hutchinson, its Trustee.

The Arbitration Panel has assessed \$1,950.00 of the forum fees jointly and severally to Comerica Securities, Inc., and Peter J. Neary.

FEE SUMMARY

Claimant, Poske Automotive Inc., Employee Profit Sharing Trust by David Hutchinson, its Trustee, is liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 450.00

Respondent, Comerica Securities, Inc., is liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Comerica Securities, Inc., and Peter J. Neary, are jointly and severally liable for:

Forum Fees	= \$ 1,950.00
Total Fees	= \$ 1,950.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,950.00

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 Arbitrator, Presiding Chair
Frederick F. Fordon - Public Arbitrator
John R. Main - Non-Public Arbitrator

Concurring Arbitrators:

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

02/18/05
Signature Date

/s/ Frederick F. Fordon
Frederick F. Fordon
Public Arbitrator

02/22/05
Signature Date

/s/ John R. Main
John R. Main
Non-Public Arbitrator

02/22/05
Signature Date

02/25/05
Date of Service (For NASD office use only)

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Frederick F. Fordon - Public Arbitrator
John R. Main - Non-Public Arbitrator

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