

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Virginia Cilny-Swick (Claimant) vs. Frank C. Scarito and Lombard Securities Incorporated (Respondents)

Case Number: 03-03326

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant Virginia Cilny-Swick hereinafter referred to as "Claimant": Matthew J. Tuttle, Esq., and Harry S. Miller, Esq., Burns & Levinson LLP, Boston, MA. Previously represented by Hugh W. Samson, Esq., Law Office of Hugh W. Samson, Lynn, MA.

Respondent Frank C. Scarito hereinafter referred to as "Scarito": Chris Litterio, Esq., Roberto Israel and Weiner, Boston, MA. Previously represented by Karen Frink Wolf and Harold J. Friedman, Friedman Gaythwaite Wolf & Leavitt, Portland, ME.

Respondent Lombard Securities Incorporated hereinafter referred to as "Lombard": Charles M. O'Rourke, Lombard Securities, Inc., Woodbury, NY. Previously represented by Karen Frink Wolf and Harold J. Friedman, Friedman Gaythwaite Wolf & Leavitt, Portland, ME.

Respondents Frank C. Scarito ("Scarito") and Lombard Securities, Incorporated ("Lombard") hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: May 2, 2003.

Answer to Counterclaim filed on or about March 3, 2004.

Claimant signed the Uniform Submission Agreement: May 2, 2003.

Joint Statement of Answer filed by Respondents on or about: October 7, 2003.

Joint Counterclaim filed by Respondents on or about: October 10, 2003.

Scarito signed the Uniform Submission Agreement: October 1, 2003.

Lombard signed the Uniform Submission Agreement: October 6, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: churning, unsuitability and unauthorized trading actionable under federal and state law. The causes of action relate to unspecified securities.

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

In their Counterclaim, Respondents asserted the following causes of action: wrongful use of civil process.

Unless specifically admitted in the Answer to Counterclaim, Claimant denied the allegations made in the Counterclaim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$137,979.00 and \$500,000.00 in punitive damages.

Respondents requested dismissal of the Statement of Claim and any other and further relief as the arbitrators deem just and proper.

In their Counterclaim, Respondents requested compensatory and punitive damages in the amount equal to the fees, costs and Counterclaimants' expenses, trebled and other and further relief as the arbitrators deems just and proper.

Claimant requested in her Answer to Counterclaim, compensatory and punitive damages and such further relief as the arbitrators deemed met and just.

OTHER ISSUES CONSIDERED AND DECIDED

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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Frank C. Scarito is liable for and shall pay to Claimant compensatory damages in the amount of \$32,230.02, plus interest at a rate of 12% per annum from May 2, 2003 to date of payment of award.
2. Respondent Lombard Securities, Inc. is liable for and shall pay to Claimant compensatory damages in the amount of \$48,345.02, plus interest at a rate of 12% per annum from May 2, 2003 to date of payment of award.

3. Respondents' Counterclaims are denied in their entirety.
4. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 375.00
Counterclaim filing fee	= \$ 500.00

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, Lombard Securities Incorporated is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

September 8 – 10, 2004 adjournment by Claimant	= \$ 1,200.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 session with Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conference: February 24, 2004	1 session
January 12, 2006	1 session
Ten (10) Hearing sessions with Panel @ \$1,200.00/session	= \$12,000.00
Hearing Date(s): September 11, 2006	2 sessions
September 12, 2006	2 sessions
September 13, 2006	2 sessions
September 14, 2006	2 sessions
September 15, 2006	2 session
Total Forum Fees	= \$14,400.00

1. The Panel has assessed \$5,760.00 of the forum fees to Scarito.
2. The Panel has assessed \$8,640.00 of the forum fees to Lombard.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Adjournment Fee</u>	= \$ 1,200.00
Total Fees	= \$ 1,575.00
<u>Less payments</u>	= \$ 2,775.00
Refund Due Claimant	= \$ 1,200.00

2. Respondent Lombard is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 8,640.00
Total Fees	= \$15,640.00
<u>Less payments</u>	= \$11,000.00
Balance Due NASD Dispute Resolution	= \$ 4,640.00

3. Respondents Scarito and Lombard are jointly and severally liable for:

<u>Counterclaim Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondent Scarito is solely liable for:

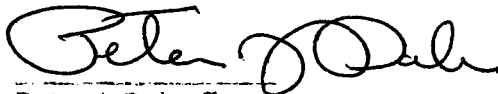
<u>Forum Fees</u>	= \$ 5,760.00
Total Fees	= \$ 5,760.00
<u>Less payments</u>	= \$ 1,000.00
Balance Due NASD Dispute Resolution	= \$ 4,760.00

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

ARBITRATION PANEL

Peter J. Dale, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael P. Anciello	-	Public Arbitrator
Edward G. Polansky	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Peter J. Dale, Esq.
Public Arbitrator, Presiding Chairperson

9/22/06
Signature Date

Michael P. Anciello
Public Arbitrator

Signature Date

Edward G. Polansky
Non-Public Arbitrator

Signature Date

September 27, 2006
Date of Service (For NASD Dispute Resolution use only)

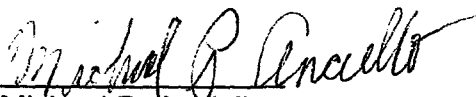
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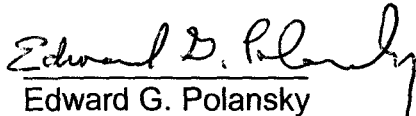
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