

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Pasquale and Karen Marzullo

Case Number: 03-03940

Name of the Respondents

Mark A. Michel and John E. Chapman

Hearing Site: Chicago, Illinois

NATURE OF THE DISPUTE

Customers v. Associated Persons

REPRESENTATION OF PARTIES

Claimants Pasquale and Karen Marzullo appeared *pro se*.

Andrew May, Esq., of the firm Lewitas and May located in Chicago, Illinois, represented Respondents Mark A. Michel (Michel) and John E. Chapman (Chapman), hereinafter collectively referred to as "Respondents." Respondents were originally represented by Todd Ratner, Esq., in-house counsel for Wachovia Securities, LLC. Wachovia Securities, LLC is not a party to this arbitration but employs Respondents.

CASE INFORMATION

Claimants filed the Statement of Claim filed on or about May 30, 2003. Claimants each signed the Uniform Submission Agreement on May 27, 2003.

Respondents filed a Joint Statement of Answer on June 30, 2003. Respondents did not file Uniform Submission Agreements.

On September 30, 2003 Respondents filed a Joint Motion to Dismiss All Claims; Claimants filed a Response on October 31, 2003; and Respondents filed a Reply In Support of their Motion on November 21, 2003.

CASE SUMMARY

Claimants Marzullo asserted the following causes of action: Failure to Execute.

The causes of action relate to the Novamed stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a cause of action upon which relief may be granted; the Statement of Claim is barred, in whole or in part, by the equitable doctrines of laches, unclean hands, and estoppel; Claimants, by their actions and inactions, waived the right to pursue a claim; to the extent that Claimants assert their claims for alleged violations of NASD or NYSE Rules, no such private right of action exists; Claimants' claims, if any, are barred, in whole or in part, by the applicable statutes of limitations; any losses were sustained as a result of Claimants' own negligence and/or contributory negligence; Claimants authorized, directed, and ratified all of the transactions in their accounts; Claimants are barred from recovery because they knowingly assumed the risks of their investments; and the Statement of Claim is barred, in whole or in part, based upon Claimants' failure to mitigate damages.

RELIEF REQUESTED

Claimant Marzullo requested compensatory damages in the amount of \$10,000.00.

Respondents requested denial and dismissal of claims.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Mark A. Michel and John E. Chapman did not file with NASD Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Arbitrator on all issues submitted.

The Arbitrator denies the Motion to Dismiss filed in this matter.

AWARD

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

1. Respondent Mark A. Michel is liable and shall pay to Claimants Pasquale and Karen Marzullo the sum of \$5,000.00 as compensatory damages.
2. The Arbitrator recommends the expungement of all reference to the above-captioned arbitration from Respondent John E. Chapman's 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 John E. Chapman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Except for the forum fees associated with this matter, which are specified herein, the parties shall bear their own costs, including attorney's fees.
4. 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	= \$75.00
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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, Wachovia Securities, LLC, as the employer of Respondents, is assessed the following fees:

Member surcharge	= \$ 325.00
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Forum Fees and Assessments

The Arbitrator 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) Hearing sessions at \$250.00	= \$ 500.00
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Hearing Date: October 5, 2004	2 sessions
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Total Forum Fees	= \$ 500.00
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The Arbitrator assessed \$500.00 of the forum fees to Mark A. Michel.

FEE SUMMARY

Claimants, Pasquale and Karen Marzullo, are jointly and severally liable for:

Initial Filing Fee	= \$ 75.00
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Total Fees	= \$ 75.00
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Less payments	= \$ 325.00
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Refund Due from NASD Dispute Resolution	= \$ 250.00
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Wachovia Securities, LLC, is solely liable for:

Member Fees	= \$ 325.00
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Total Fees	= \$ 325.00
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Less payments	= \$ 325.00
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Balance Due NASD Dispute Resolution	= \$ 0.00
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Respondent Mark A. Michel is solely liable for:

Forum Fee	= \$ 500.00
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Less payments	= \$ 0.00
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Balance Due NASD Dispute Resolution	= \$ 500.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATOR

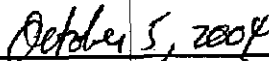
Richard L. Blatt, Esq.

Public Arbitrator, Chairperson

Arbitrator's Signature



Richard L. Blatt, Esq.
Public Arbitrator, Chairperson


Signature Date

10/5/04

Date of Service (For NASD Dispute Resolution office use only)