

Modified Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Margaret Kewn (Claimant) v. Advest, Inc. and Frank Albano (Respondents)

Case Number: 03-04203

Hearing Site: New York, New York.

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

REPRESENTATION OF PARTIES

Claimant Margaret Kewn ("Claimant") appeared *pro se*. Previously represented by Brian M. Limmer, Esq., Bellmore, NY.

Respondent Advest, Inc ("Advest"): Michael Kalmus, Esq., New York, NY.

Respondent Frank Albano ("Albano"): Michael A. Levy, Esq., Levy & Schneps, P.C., Manhasset, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 9, 2003.

Claimant signed the Uniform Submission Agreement: June 4, 2003.

Joint Statement of Answer filed by Respondents Advest and Albano on or about: October 15, 2003.

Respondent Advest signed the Uniform Submission Agreement: October 15, 2003.

Respondent Albano signed the Uniform Submission Agreement: October 15, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise, negligence, and omission of facts. The causes of action relates to mutual funds and preferred stocks.

Unless specifically admitted in their Answer, Respondents Advest and Albano denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$104,703.00 against Respondents Advest and Albano.

Respondents Advest and Albano requested that the Statement of Claim be denied in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 28, 2005, the Panel granted Respondent Albano's request for expungement. The Panel's decision was not captured in the Award served upon the parties on or about November 14, 2005.

On or about December 28, 2005, the Panel, having realized that their order granting expungement was not captured in the previous Award, directed that this Modified Award be issued.

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 Advest is liable for and shall pay to Claimant compensatory damages in the amount of \$20,000.00.
2. The Panel recommends the expungement of all references to the above captioned Arbitration from Respondent Frank Albano's registration records maintained by the Central Registration Depository ("CRD") with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Frank Albano must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Please note that the expungement order is based on the potentially defamatory nature of the information in the CRD records.

3. 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, Advest is a member party.

Member surcharge	= \$ 1700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2750.00</u>
Total Member fees	= \$ 5200.00

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 the Panel @ \$1,125.00 = \$ 2,250.00

Pre-hearing conferences: March 11, 2004 1 session
 March 23, 2005 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$ 4,500.00

Hearing Dates: October 27, 2005 2 sessions
 October 28, 2005 2 sessions

Total Forum Fees = \$ 6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees to Respondent Advest.

Fee Summary

1. Claimant Kewn is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 3,675.00
<u>Less payments</u>	<u>= \$ 1,425.50</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

2. Respondent Advest is solely liable for:

Member fees	= \$ 5,200.00
<u>Forum fees</u>	<u>= \$ 3,375.00</u>
Total fees	= \$ 8,575.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

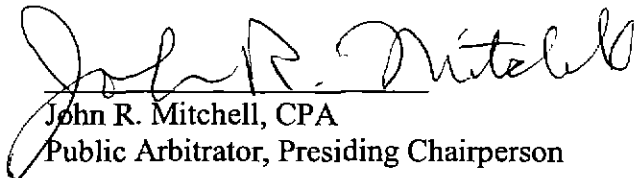
ARBITRATION PANEL

John R. Mitchell, CPA
Arthur J. Kresch
Alfonso G. Figliolia

- Public-Arbitrator, Presiding Chairperson:
- Public- Arbitrator
- 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.


John R. Mitchell, CPA
Public Arbitrator, Presiding Chairperson

1-11-06
Signature Date

Arthur J. Kresch
Public Arbitrator

Signature Date

Alfonso G. Figliolia
Non-Public Arbitrator

Signature Date

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

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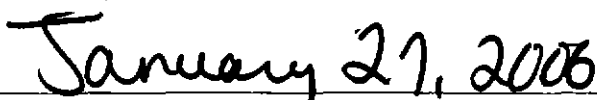
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