

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

William David Cain

vs.

03-06078
Nashville, Tennessee

Respondent

USAllianz Securities, Inc.

NATURE OF DISPUTE

Associated Person vs. Member Firm

REPRESENTATION OF PARTIES

William David Cain ("Claimant") appeared *pro se*.

USAllianz Securities, Inc. ("Respondent") was represented by Catherine A. McEnroe, Esq. of Leonard, Street and Deinard, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about August 21, 2003. The Submission Agreement of Claimant, William David Cain, was signed on or about August 18, 2003.

The Statement of Answer, Motion to Dismiss and Request for Fees and Costs was filed by Respondent, USAllianz Securities, Inc., on or about October 17, 2003. The Submission Agreement of Respondent, USAllianz Securities, Inc., was signed on or about October 14, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; defamation; and outrageous conduct. Claimant alleged that Respondent terminated his employment without justification based on, and without a proper investigation of, a customer's claim of unauthorized trading. Claimant further contended the Respondent made false and defamatory statements in his Form U-5 relating to this customer complaint, and that he has therefore suffered damage to his reputation and other monetary damages as a result of Respondent's conduct.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

USAllianz hereby denies each and every allegations set forth in the statement of claim, except Cain's allegation setting forth the time period he was associated with USAllianz. USAllianz further states that its conduct was reasonable, its statements were truthful, that it acted in accordance with its obligations under the registered representative agreement and in accordance with its obligations as a member of the NASD.

Respondent further contended that Claimant's termination was justified because Claimant had admitted in a phone call with a member of Respondent's compliance department that he had placed trades in the complaining customer's account without prior authorization, as a part of his periodic rebalancing of positions in his customers' account.

RELIEF REQUESTED

Claimant requested an award of \$500,00.00 in compensatory damages, punitive damages of \$500,000.00, interest, costs, attorney's fees and such other and further relief as the arbitrators may deem just and proper. Claimant also requested that the panel order Respondent and the NASD amend the September 6, 2002 Form U-5 so as to remove all false and defamatory statements and have CRD expunge any such statements from his records.

Respondent requested that the claims asserted against it be denied in their entirety, and that it be awarded all of its costs in this action, together with an award of attorney's fees and expenses in the amount of \$45,860.36.

OTHER ISSUES CONSIDERED & DECIDED

On or about November 29, 2004, Jerry W. Hamlin, Esq., notified the NASD he would not be representing the Claimant at the hearing.

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 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. The Statement of Claim and all claims asserted by Claimant therein are dismissed with prejudice;
2. Respondent's claim for attorney's fees and expenses is denied;
3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$375.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is USAllianz Securities, Inc.

| | | |
|-------------------------|----|-----------------|
| Member surcharge | \$ | 2,250.00 |
| Pre-hearing process fee | \$ | 750.00 |
| Hearing process fee | \$ | <u>4,000.00</u> |
| Total Member Fees | \$ | 7,000.00 |

Adjournment Fees

Adjournment requested during these proceedings:

July 13-15, 2004 Hearing dates requested by Claimant = \$ 1,200.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

| | | | | |
|----------------------------------|------------|----------|----|-----------------|
| 1 Pre-hearing session with Panel | x | 1,200.00 | \$ | 1,200.00 |
| February 3, 2004 | 1 session | | | |
| 2 Hearing sessions | x | 1,200.00 | \$ | 2,400.00 |
| December 8, 2004 | 2 sessions | | | |
| Total Forum Fees | | | \$ | <u>3,600.00</u> |

The Arbitration Panel has assessed \$3,600.00 of the forum fees to William David Cain.

Fee Summary

Claimant, William David Cain, is liable for:

| | | |
|--|------|------------------|
| Initial Filing Fee | = \$ | 375.00 |
| Adjournment Fees | = \$ | 1,200.00 |
| <u>Forum Fees</u> | = \$ | <u>3,600.00</u> |
| Total Fees | = \$ | 5,175.00 |
| <u>Less payments</u> | = \$ | <u>-1,575.00</u> |
| Balance Due to NASD Dispute Resolution | = \$ | 3,600.00 |

Respondent, USAI Allianz Securities, Inc., is liable for:

| | | |
|-------------------------------------|------|------------------|
| <u>Member Fees</u> | = \$ | <u>7,000.00</u> |
| Total Fees | = \$ | 7,000.00 |
| <u>Less payments</u> | = \$ | <u>-7,000.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 0.00 |

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

ARBITRATION PANEL

Claude O. Ramer, II – Non-Public Arbitrator, Presiding Chair
R. Patrick Shepherd – Non-Public Arbitrator
John C. Burch, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Claude O. Ramer, II
Claude O. Ramer, II
Non-Public Arbitrator, Presiding Chair

12/16/04
Signature Date

/s/ R. Patrick Shepherd
R. Patrick Shepherd
Non-Public Arbitrator

12/16/04
Signature Date

/s/ John C. Burch, Jr.
John C. Burch, Jr.
Non-Public Arbitrator

12/17/04
Signature Date

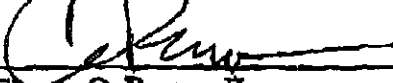
12/20/04
Date of service

NASD Dispute Resolution
Arbitration No. 03-06078
Award Page 5 of 5

ARBITRATION PANEL

Claude O. Ramer, II - Non-Public Arbitrator, Presiding Chair
R. Patrick Shepherd - Non-Public Arbitrator
John C. Burch, Jr. - Non-Public Arbitrator

Consenting Arbitrators:



Claude O. Ramer, II
Non-Public Arbitrator, Presiding Chair

12/16/04

Signature Date

R. Patrick Shepherd
Non-Public Arbitrator

Signature Date

John C. Burch, Jr.
Non-Public Arbitrator

Signature Date

Date of service

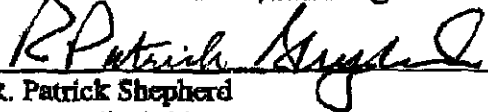
NASD Dispute Resolution
Arbitration No. 03-06078
Award Page 5 of 5

ARBITRATION PANEL

Claude O. Ramer, II - Non-Public Arbitrator, Presiding Chair
R. Patrick Shepherd - Non-Public Arbitrator
John C. Burch, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Claude O. Ramer, II
Non-Public Arbitrator, Presiding Chair


R. Patrick Shepherd
Non-Public Arbitrator

Signature Date

12-16-04

Signature Date

John C. Burch, Jr.
Non-Public Arbitrator

Signature Date

Date of service

NASD Dispute Resolution
Arbitration No. 03-06078
Award Page 5 of 5

ARBITRATION PANEL

Claude O. Ramer, II – Non-Public Arbitrator, Presiding Chair
R. Patrick Shepherd – Non-Public Arbitrator
John C. Burch, Jr. – Non-Public Arbitrator

Concurring Arbitrators:

Claude O. Ramer, II
Non-Public Arbitrator, Presiding Chair

Signature Date

R. Patrick Shepherd
Non-Public Arbitrator

Signature Date


John C. Burch, Jr.
Non-Public Arbitrator

12/17/04
Signature Date

Date of service