

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Eileen Ann Anderson TTEE Mary M. Simpson 1990 Revocable Living Trust, Claimant v.
Financial West Group and Patrick J. Sahli, Respondents

Case Number: 03-06252

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimant:

Reed H. Bement, Esq.
Law Offices of Reed H. Bement, Inc.
San Francisco, California

For Respondent Financial West Group:

Dennis J. Kelly, Esq.
Elaine Wang, Esq.
Liner Yankelevitz Sunshine & Regenstreif LLP
San Francisco, California

For Respondent Patrick J. Sahli:

Respondent Patrick J. Sahli did not make an
appearance in this matter

CASE INFORMATION

Statement of Claim filed: August 21, 2003

Claimant's Uniform Submission Agreement signed: August 18, 2003

Statement of Answer filed by Respondent Financial West Group: December 15, 2003

Respondent Financial West Group's Uniform Submission Agreement signed: January 7, 2004

CASE SUMMARY

Claimant alleged violation of NASD Rules, misappropriation, unsuitability, fraud, failure to supervise, negligence, breach of fiduciary duty, omission of facts, and unauthorized trading, involving various unspecified securities.

Respondent Financial West Group denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

Respondent Patrick J. Sahli did not file an answer in this matter.

RELIEF REQUESTED

Claimant requested \$298,000.00 in compensatory damages, pre-judgment interest beginning from December 1, 1999, and attorney's fees. Claimant also requested \$500,000.00 in punitive damages against Respondent Patrick J. Sahli.

Respondent Financial West Group requested dismissal of Claimant's Statement of Claim in its entirety, attorney's fees, costs, and that any damages suffered by Claimant to be offset by any amount due and owing Financial West Group.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Patrick J. Sahli did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure and is bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made by and on behalf of the Claimant, the undersigned Panel determined that Respondent Patrick J. Sahli was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure.

On September 29, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On September 22, 2004, Claimant dismissed Respondent Financial West Group pursuant to a settlement agreement reached between these two parties. The settlement agreement did not include Respondent Patrick J. Sahli.

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

- 1) Respondent Patrick J. Sahli is liable to and shall pay Claimant Eileen Ann Anderson TTEE Mary M. Simpson 1990 Revocable Living Trust the sum of \$174,864.00 in compensatory damages. Respondent Patrick J. Sahli will be entitled to an offset against this sum for any restitution actually paid by him to Claimant Eileen Ann Anderson TTEE Mary M. Simpson 1990 Revocable Living Trust pursuant to any criminal or civil court judgment.
- 2) Respondent Patrick J. Sahli is liable to and shall pay Claimant Eileen Ann Anderson TTEE Mary M. Simpson 1990 Revocable Living Trust the sum of \$500,000.00 in punitive damages, pursuant to California Civil Code Section 3294.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial Claim Filing Fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Financial West Group is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: July 14, 2004 1 session	
1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: February 19, 2004 1 session	
1 Hearing session @ \$ 1,200.00/session	= \$ 1,200.00
Hearing: October 5, 2004 1 session	
Total Forum Fees	= \$ 2,850.00

1. The Panel assessed \$1,650.00 of the forum fees jointly and severally to Respondents Financial West Group and Patrick J. Sahli.
2. The Panel assessed \$1,200.00 of the forum fees to Respondent Patrick J. Sahli.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested past arbitration awards: =\$ 70.00

FEE SUMMARY

1. Claimant Eileen Ann Anderson TTEE Mary M. Simpson 1990 Revocable Living Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Administrative Costs</u>	= \$ 70.00
Total Fees	= \$ 445.00
<u>Less payments</u>	= \$(1,715.00)
Refund Due Claimant	= \$(1,270.00)

2. Respondent Financial West Group is charged with the following fees and costs:

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

3. Respondent Patrick J. Sahli is charged with the following fees and costs:

Forum Fees	= \$ 1,200.00
<u>Less payments</u>	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,200.00

4. Respondents Financial West Group and Patrick J. Sahli are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,650.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,650.00

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

ARBITRATION PANEL

Richard L. Rubin	-	Public Arbitrator, Presiding Chair
Mario Henry Barsotti	-	Public Arbitrator
Elmo E. Wedderburn	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard L. Rubin
Chair, Public Arbitrator

Signature Date

Mario Henry Barsotti
Public Arbitrator

Signature Date

Elmo E. Wedderburn
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Richard L. Rubin	-	Public Arbitrator, Presiding Chair
Mario Henry Barsotti	-	Public Arbitrator
Elmo E. Wedderburn	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Richard L. Rubin
Chair, Public Arbitrator

Oct. 6, 2004
Signature Date

Mario Henry Barsotti
Public Arbitrator

Signature Date

Elmo E. Wedderburn
Non-Public Arbitrator

Signature Date

10/6/04
Date of Service

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Richard L. Rubin
Chair, Public Arbitrator

Signature Date



Mario Henry Barsotti
Public Arbitrator

10/6/04

Signature Date

Elmo E. Wedderburn
Non-Public Arbitrator

Signature Date

10/6/04

Date of Service

ARBITRATION PANEL

Richard L. Rubin

Mario Henry Barsotti

Elmo E. Wedderburn

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard L. Rubin

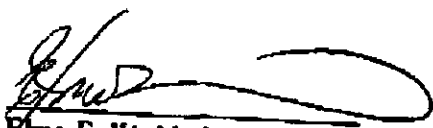
Chair, Public Arbitrator

Signature Date

Mario Henry Barsotti

Public Arbitrator

Signature Date


Elmo E. Wedderburn
Non-Public Arbitrator

10/6/04
Signature Date

10/6/04
Date of Service