

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Louis A. D'Auria Charitable Remainder Trust, Michael D'Auria, Dawn D'Auria Charitable Remainder Trust (Claimants) vs. Commonwealth Financial Network, Heritage Advisors Inc., and Stephen F. White (Respondents)

Case Number: 03-06812

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimants Louis A. D'Auria Charitable Remainder Trust ("L. D'Auria"), Michael D'Auria ("M. D'Auria"), and Dawn D'Auria Charitable Remainder Trust ("D. D'Auria") hereinafter collectively referred to as "Claimants": Terrance J. McCarthy, Esq., Law Offices of Terrance J. McCarthy, Esq., Braintree, MA.

Respondents Commonwealth Financial Network ("CFN"), Heritage Advisors Inc. ("Heritage"), and Stephen F. White ("S. White"), hereinafter collectively referred to as "Respondents": Katherine B. Harrison, Esq., Paduano & Weintraub LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: September 18, 2003.

L. D'Auria signed the Uniform Submission Agreement: August 29, 2003.

M. D'Auria signed the Uniform Submission Agreement: August 29, 2003.

D. D'Auria signed the Uniform Submission Agreement: August 29, 2003.

Joint Statement of Answer filed by Respondents on or about: December 18, 2003.

CFN signed the Uniform Submission Agreement: December 18, 2003.

Heritage signed the Uniform Submission Agreement: December 19, 2003.

S. White signed the Uniform Submission Agreement: December 19, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: failure to supervise; negligence; fraud; lack of due diligence; and omission of facts; in the course of what they alleged to be an underwriting, and sought relief in the nature of rescission. The causes of action relate to the sale of debt securities of a single issuer in what was represented to be private placement transactions.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,200,000.00, punitive damages, attorneys' fees, and costs.

Respondents requested that the Panel dismiss the claim in its entirety, award Respondents reasonable costs, including attorneys' fees, and grant them such other relief as the Panel deems just and proper. Respondent White also requested that this arbitration be expunged from his CRD record.

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 CFN is liable for and shall pay to L. D'Auria \$34,957.38 in compensatory damages.
2. Respondent CFN is liable for and shall pay to D. D'Auria \$70,811.14 in compensatory damages.
3. Respondent CFN is liable for and shall pay to M. DAuria \$164,104.65 in compensatory damages.
4. Upon receipt of payment of the award as provided for by paragraphs 1-3 herein, each Claimant shall assign its interest in IBF Fund LLC, IBF Liquidating LLC and/or IBF Fund Liquidating LLC and all payments received from these named companies or any other entity on account of their investments in the securities in issue in this proceeding received after May 5, 2006 to Commonwealth Financial Network.
5. 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 = \$ 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, Commonwealth Financial Network is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 11 and 14, 2006 adjournment by Respondents = Waived

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: June 1, 2005 1 session	

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$3,600.00
Pre-hearing conferences: March 25, 2004 1 session	
November 10, 2004 1 session	
February 2, 2004 1 session	

Thirty-Six (36) Hearing sessions with Panel @ \$1,200.00	= \$43,200.00
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Hearing Dates:	March 10, 2005	2 sessions
	March 11, 2005	2 sessions
	July 11, 2005	2 sessions
	July 12, 2005	1 session
	October 12, 2005	2 sessions
	October 13, 2005	2 sessions
	October 14, 2005	2 sessions
	November 7, 2005	2 sessions
	November 8, 2005	2 sessions
	March 9, 2006	2 sessions
	March 10, 2006	2 sessions
	March 13, 2006	2 sessions
	April 12, 2006	2 sessions
	April 13, 2006	2 sessions
	May 4, 2006	2 sessions
	May 5, 2006	2 sessions
	June 5, 2006	2 sessions
	June 6, 2006	2 sessions

June 7, 2006 1 session

Total Forum Fees = \$47,250.00

1. The Panel has assessed \$23,625.00, jointly and severally to the Claimants.
2. The Panel has assessed \$23,625.00 of the forum fees to CFN.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

CFN requested duplication of 31 tapes @ \$15.00 per tape = \$ 465.00

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$23,625.00
Total Fees	= \$24,125.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$22,425.00

2. Respondent CFN is solely liable for:

Member Fees	= \$ 8,550.00
Adjournment Fee	= Waived
Forum Fees	= \$23,625.00
<u>Administrative Costs</u>	= \$ 465.00
Total Fees	= \$32,640.00
<u>Less payments</u>	= \$ 9,015.00
Balance Due NASD Dispute Resolution	= \$23,625.00

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

ARBITRATION PANEL

Edward R. Wiest	-	Public Arbitrator, Presiding Chairperson
Mary C. Kelleher	-	Public Arbitrator
Robert W. Crook	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Edward R. Wiest
Public Arbitrator, Presiding Chairperson

 17 Aug 06
Signature Date

Mary C. Kelleher
Public Arbitrator

Signature Date

Robert W. Crook
Non-Public Arbitrator

Signature Date

August 18, 2006
Date of Service (For NASD Dispute Resolution use only)

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Edward R. Wiest
Public Arbitrator, Presiding Chairperson

Signature Date

Mary C. Kelleher
Mary C. Kelleher
Public Arbitrator

August 18, 2006
Signature Date

Robert W. Crook
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Mary C. Kelleher
Public Arbitrator

Signature Date



Robert W. Crook
Non-Public Arbitrator

Aug 17, 2006

Signature Date

August 18, 2006

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