

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mark Awed (Claimant) vs. Cantella & Co., Inc., SAL Financial Services, Inc., Spear, Leeds & Kellogg, Carlin Equities Group, and Murjen Financial, Inc. (Respondents) vs. Olympia Asset Management, Michael P. Murphy, James Pangione, and Timothy Rassias (Third-Party Respondents) vs. Cantella & Co., Inc. (Cross-Claim Respondent)

Case Number: 04-00691

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customer vs. Members vs. Members and Associated Persons

REPRESENTATION OF PARTIES

Claimant Mark Awed hereinafter referred to as "Claimant": Kimberly A. Stone, Esq., Bowditch & Dewey, LLP, Worcester, MA.

Respondent SAL Financial Services, Inc. ("SAL Financial"): A. Inge Selden III, Esq., R. Allen Kilgore, Jr., Esq., and Bradley B. Rounsaville, Esq., Maynard, Cooper & Gale, P.C., Birmingham, AL.

Respondent Spear, Leeds & Kellogg ("Spear"): Ida Wurzinger Draim, Esq., Dickstein Shapiro Morin & Oshinsky LLP, Washington, DC.

Respondent Carlin Equities Group ("Carlin Equities"): Daniel G. Viola, Esq., New York, NY.

Respondent, Cross-Claim Claimant and Third-Party Claimant Murjen Financial, Inc. ("Murjen Financial"): John E. Lawlor, Esq., Mineola, NY. Previously represented by Harry J. Delagrammatikas, Esq., Liam O'Brien & Associates P.C., New York, NY.

Third-Party Respondent and Cross-Claim Respondent Cantella & Co. ("Cantella"): Matthew Tracy, Esq., Winget, Spadafora & Schwartzberg, New York, NY.

Third-Party Respondents Olympia Asset Management ("Olympia") and Michael P. Murphy ("Murphy"): John E. Lawlor, Esq., Mineola, NY. Previously represented by David A. Gehn, Esq., Gusrae, Kaplan & Bruno, PLLC, New York, NY.

Third-Party Respondent James Pangione ("Pangione") did not enter an appearance in this matter.

Third-Party Respondent Timothy Rassias ("Rassias") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: February 2, 2004.
Claimant signed the Uniform Submission Agreement: February 2, 2004.

Statement of Answer filed by SAL Financial on or about: April 14, 2004.
SAL Financial signed the Uniform Submission Agreement: August 26, 2004.

Statement of Answer and Motion to Dismiss filed by Spear on or about: April 13, 2004.
Spear signed the Uniform Submission Agreement: April 12, 2004.

Statement of Answer and Motion to Dismiss filed by Carlin Equities on or about: April 29, 2004.
Carlin signed the Uniform Submission Agreement: April 29, 2004.

Statement of Answer, Motion to Dismiss, Cross-Claim, and Third-Party Claims filed by Murjen Financial on or about: August 27, 2004.
Amended Statement of Answer, Motion to Dismiss, Cross-Claim, and Third-Party Claims filed by Murjen Financial on or about: January 18, 2005.
Murjen Financial signed the Uniform Submission Agreement: August 17, 2004.

Statement of Answer and Counterclaim filed by Cantella on or about: February 17, 2005.
Cantella signed the Uniform Submission Agreement: March 8, 2005.

Statement of Answer and Motion to Dismiss filed by Olympia Asset on or about: July 6, 2004.
Olympia Asset signed the Uniform Submission Agreement: June 20, 2005.

Statement of Answer and Motion to Dismiss filed by Murphy on or about: July 6, 2004.
Murphy signed the Uniform Submission Agreement: June 20, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation, failure to disclose, failure to supervise, negligence, and fraud. The causes of action relate to the Hercules Hedgehog Fund.

Unless specifically admitted in its Answer, Respondent SAL Financial denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Spear denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Carlin Equities denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent Murjen Financial denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In its Cross-Claim, Respondent Murjen Financial asserted the following causes of action: contribution and indemnification.

In its Third-Party Claims, Respondent Murjen Financial asserted the following causes of action: common law indemnity or contribution and contractual indemnity or contribution.

Unless specifically admitted in its Answer, Cross-Claim Respondent Cantella denied the allegations made in the Cross-Claim and asserted various affirmative defenses.

In its Counterclaim, Cross-Claim Respondent Cantella asserted the following causes of action: frivolous claim.

Unless specifically admitted in its Answer, Third Party Respondent Olympia Assets denied the allegations made in the Statement of Claim.

Unless specifically admitted in his Answer, Third Party Respondent Murphy denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00, treble damages, punitive damages, costs, and legal fees.

Respondent SAL Financial requested dismissal of the Statement of Claim in its entirety with prejudice and attorneys' fees.

Respondent Spear requested dismissal of the Statement of Claim in its entirety, fees, and costs.

Respondent Carlin Equities requested dismissal of the Statement of Claim in its entirety, attorneys' fees, costs, expenses, and such other and further relief as the Panel may deem just and proper.

Respondent Murjen Financial requested dismissal of the Statement of Claim in its entirety with prejudice, indemnification and/or contribution in the amount of an award rendered against Murjen in favor of Claimants, attorneys' fees, costs, and such other and further relief as is just and proper.

In its Counterclaim and Cross-Claim Respondent Cantella requested dismissal of Cross-Claim Claimant Murjen Financial's Cross-Claims in their entirety, costs, attorneys' fees, forum fees, and such other and further relief as the Panel deems just and appropriate.

Third Party Respondent Olympia Asset requested dismissal of the Third-Party Claims in their entirety, costs, and such other and further relief as the Panel deems just and proper.

Third Party Respondent Murphy requested dismissal of the Third-Party Claims in their entirety, costs, and such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated March 19, 2004 Claimant notified NASD Dispute Resolution that Claimant withdrew all claims against Respondent Cantella.

By letter dated December 10, 2004 Claimant notified NASD Dispute Resolution that Claimant withdrew all claims against Respondent Spear and Respondent Carlin Equities.

On or about November 22, 2005 Claimant informed NASD Dispute Resolution that Claimant and Respondent SAL Financial reached a settlement and Claimant withdrew all claims against Respondent SAL Financial.

Respondent Pangione and Respondent Rassias filed for bankruptcy. Accordingly, all claims against Respondent Pangione and Respondent Rassias are stayed.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be executed.

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 Murjen Financial is liable for and shall pay to Claimant compensatory damages in the amount of \$71,625.00.
2. Respondent Murjen Financial is liable for and shall pay to Claimant attorneys' fees in the amount of \$78,073.02 pursuant to Massachusetts statute - MA ch 93-A.
3. 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	= \$ 300.00
Cross-Claim and Third Party Claims filing fee	= \$1,000.00
Counterclaim 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 persons at the time of the events giving rise to the dispute. Accordingly, Cantella & Co., Inc., SAL Financial Services, Inc., Murjen Financial, Inc., and Olympia Asset Management are parties.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

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. Accordingly, Spear, Leeds & Kellogg and Carlin Equities Group are parties.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 28-30, 2005 and December 6-7, 2005, adjournment by Respondent Murjen Financial	= \$1,125.00
March 6-8, 2006, adjournment by Murjen Financial	= \$1,500.00

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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conference: December 16, 2004 1 session	
November 28, 2004 1 session	

Six (6) Hearing sessions @ \$1,125.00/session	= \$6,750.00
Hearing Dates: March 22, 2006 2 sessions	
March 23, 2006 2 sessions	
May 22, 2006 2 sessions	

Total Forum Fees	= \$9,000.00
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1. The Panel has assessed \$2,250.00 of the forum fees to Claimant.
2. The Panel has assessed \$6,750.00 of the forum fees to Respondent Murjen Financial.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent Murjen Financial, requested copies of tapes = \$ 165.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,550.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

2. Respondent Murjen Financial is solely liable for:

Cross-Claim and Third-Party Claim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Adjournment Fees	= \$ 2,625.00
Administrative Costs	= \$ 165.00
<u>Forum Fees</u>	<u>= \$ 6,750.00</u>
Total Fees	= \$15,740.00
<u>Less payments</u>	<u>= \$ 8,615.00</u>
Balance Due NASD Dispute Resolution	= \$7,125.00

3. Third-Party Respondent Cantella is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,700.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 500.00

4. Respondent SAL Financial is solely liable for:

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

5. Respondent Spear is solely liable for:

<u>Member Fees</u>	<u>= \$ 2,450.00</u>
Total Fees	= \$ 2,450.00
<u>Less payments</u>	<u>= \$ 2,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

6. Respondent Carlin Equities is solely liable for:

<u>Member Fees</u>	<u>= \$ 2,450.00</u>
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Total Fees	= \$ 2,450.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Refund Due Respondent Carlin Equities	= \$ 2,750.00

7. Third-Party Respondent Olympia Asset is solely liable for:

Member Fees	= \$ 5,200.00
<u>Total Fees</u>	<u>= \$ 5,200.00</u>
<u>Less payments</u>	<u>= \$ 5,200.00</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

John Hansen, Esq.	-	Public Arbitrator, Presiding Chairperson
S. Deborah Habig Shnek, Esq.	-	Public Arbitrator
Christine Armstrong, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John Hansen, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

S. Deborah Habig Shnek, Esq.
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature



Christine Armstrong, Esq.
Non-Public Arbitrator

6-2-06
Signature Date

June 6, 2006

Date of Service (For NASD Dispute Resolution use only)

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S. Deborah Habig Shnek, Esq.	-	Public Arbitrator
Christine Armstrong, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John Hansen
John Hansen, Esq.
Public Arbitrator, Presiding Chairperson

6.4.06
Signature Date

S. Deborah Habig Shnek, Esq.
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Christine Armstrong, Esq.
Non-Public Arbitrator

Signature Date

June 6, 2006

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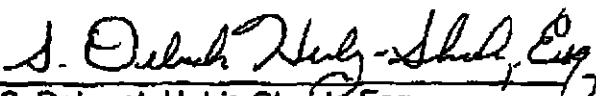
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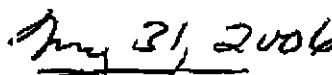
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Public Arbitrator



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Christine Armstrong, Esq.
Non-Public Arbitrator

Signature Date

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