

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Pauline S. Hamil, Claimant v. Ross Edwin Lamberts and WMA Securities, Inc., Respondents

Case Number: 04-02787

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimant:

Timothy A. Canning, Esq.
Attorney At Law
Novato, California

For Respondent WMA Securities, Inc.:

Michael A. Firestein, Esq.
Proskauer Rose LLP
Los Angeles, California

For Respondent Ross Edwin Lamberts:

Ross Edwin Lamberts
La Center, Washington

CASE INFORMATION

Statement of Claim filed: April 14, 2004

Claimant's Opposition to Motion to Dismiss filed: November 29, 2004

Claimant's Uniform Submission Agreement signed: March 31, 2004

Joint Statement of Answer, Motion to Dismiss, and Affirmative Defenses of Respondents WMA Securities, Inc. ("WMAS") and Ross Edwin Lamberts filed: June 25, 2004

Reply of Respondents WMAS and Ross Edwin Lamberts in Support of their Motion to Dismiss filed: December 6, 2004

Pre-Hearing Brief of Respondent WMAS filed: April 12, 2005

Respondent WMAS's Uniform Submission Agreement signed: May 10, 2004

Respondent Ross Edwin Lamberts' Uniform Submission Agreement signed: June 30, 2004

CASE SUMMARY

Claimant alleged the following claims with respect to her investment in Mansfield Viaticals: 1) Fraud; 2) Negligence; 3) Misrepresentation; 4) Breach of Contract; 5) Breach of Fiduciary Duty; 6) Unsuitability; 7) Lack of Reasonable Basis; and 8) Failure to Supervise.

Respondents denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Damages in the amount of \$80,000.00 or more, subject to proof at hearing;
2. Interest at the legal rate of 10% from April 17, 1998, to the date of the evidentiary hearing, less whatever distributions Claimant may have received;
3. Reimbursement for the reasonable costs in the prosecution of this claim;
4. Punitive and exemplary damages; and
5. Disciplinary referrals to the appropriate regulatory enforcement agencies as the Panel deems appropriate.

Respondents requested:

1. Dismissal of Claimant's claims in their entirety; and
2. Any other relief which the Panel may find to be just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

On August 11, 2004 and August 12, 2004, 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 or about December 10, 2004, the Panel reviewed and considered the positions of the parties relative to the Motion to Dismiss filed by Respondents. The Panel denied the Motion to Dismiss without prejudice.

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. Respondents WMAS and Ross Edwin Lamberts are jointly and severally liable to and shall pay Claimant the sum of \$40,000.00 in compensatory damages.
2. Respondents WMAS and Ross Edwin Lamberts are jointly and severally liable to and shall pay Claimant interest on the aforementioned sum of \$40,000.00 at the rate of 10% per annum from July 1, 2001 until paid.
3. Claimant's claims for punitive and exemplary damages are denied.
4. Each party shall bear its own costs, including attorney's fees.
5. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$225.00
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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, WMAS is a party and the following fees are assessed:

Member Surcharge	= \$1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

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/Panel. The following fees are assessed:

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

(2) Pre-hearing conference sessions with the Panel @ \$750.00/session = \$1,500.00
Pre-hearing conferences: October 27, 2004 1 session
December 10, 2004 1 session

(6) Hearing sessions @ \$750.00/session = \$4,500.00
Hearings: May 2, 2005 2 sessions
May 3, 2005 2 sessions
May 4, 2005 2 sessions

Total Forum Fees = **\$6,450.00**

The Panel assessed the \$6,450.00 in forum fees to Respondent WMAS.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Less Payments</u>	= \$(975.00)
Refund Due Claimant	= \$(750.00)

2. Respondent WMAS is charged with the following fees and costs:

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 6,450.00
Total Fees	= \$ 10,000.00
<u>Less Payments</u>	= \$(3,550.00)
Balance Due NASD-DR	= \$ 6,450.00

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

ARBITRATION PANEL

Daniel M. Yanshon, Esq.

Public Arbitrator, Presiding Chair

Arturo Maimoni

Public Arbitrator

Carlos Richard Mangum

Non-Public Arbitrator

Concurring Arbitrators' Signatures


Daniel M. Yanshon, Esq.
Chair, Public Arbitrator

5/6/05
Signature Date

Arturo Maimoni
Public Arbitrator

Signature Date

Carlos Richard Mangum
Non-Public Arbitrator

Signature Date

5/9/05
Date of Service

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Daniel M. Yamshon, Esq.	-	Public Arbitrator, Presiding Chair
Arturo Maimoni	-	Public Arbitrator
Carlos Richard Mangum	-	Non-Public Arbitrator

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