

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Brenda Exline

v.

04-03595

Denver, Colorado

Respondents

Dominick & Dominick, L.L.C., James H. Elliot

Paul E. Elliot, Dominick & Dominick Advisers, L.L.C.,

Elco Energy Fund, L.P. and Elco Management Company, L.L.C.

NATURE OF DISPUTE

Customer v. Member, Associated Persons and Non-Members

REPRESENTATION OF PARTIES

Brenda Exline ("**Claimant**") was represented by Erwin J. Shustak, Esq., and Thomas Frost, Esq., of Shustak Jalil & Heller, P.C., San Diego, California.

Dominick & Dominick, L.L.C. ("Dominick & Dominick, L.L.C.") and Dominick & Dominick Advisers, L.L.C. ("Dominick & Dominick Advisers, L.L.C."), were represented by Brian F. Amery, Esq., of Bressler Amery & Ross, P.C., New York, New York.

James H. Elliot ("James H. Elliot"), Paul E. Elliot ("Paul E. Elliot"), Elco Energy Fund, L.P. ("Elco Energy Fund, L.P."), and Elco Management Company, L.L.C. ("Elco Management Company, L.L.C.") were represented by Roger P. Thomasach, Esq., of Ballard Spahr Andrews & Ingersoll, LLP, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about May 7, 2004. The Submission Agreement of Claimant was signed on or about March 6, 2004.

A Statement of Answer was filed jointly by Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., on or about September 1, 2004. The Submission Agreement of Respondent, Dominick & Dominick, L.L.C., was signed on or about July 29, 2004. The Submission Agreement of Respondent, Dominick & Dominick Advisers, L.L.C., was signed on or about July 29, 2004.

A Statement of Answer was filed jointly by Respondents, Elco Energy Fund, L.P., Elco Management Company, L.L.C., James H. Elliot and Paul E. Elliot on or about August 5, 2004. The Submission Agreement of Respondent, Elco Energy Fund, L.P., was signed on or about August 2, 2004. The Submission Agreement of Respondent, Elco Management Company, L.L.C., was signed on or about August 2, 2004. The Submission Agreement of Respondent, James H. Elliot, was signed on or about August 2, 2004. The Submission Agreement of Respondent, Paul E. Elliot, was signed on or about August 2, 2004.

Respondents, Elco Energy Fund, L.P., Elco Management Company, L.L.C., James H. Elliot and Paul E. Elliot, filed a Motion to Change Hearing Venue on or about August 5, 2004. Claimant filed Response in Opposition to Respondents' Motion to Change Venue on or about August 23, 2004.

Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., filed a Motion to Transfer Venue on or about August 23, 2004. Claimant filed a Response to Respondents' Motion to Transfer Hearing Venue on or about August 31, 2004. Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., filed a Reply in Support of their Motion to Transfer Hearing Venue on or about September 2, 2004. Claimant filed a Declaration in Further Opposition to Respondents' Dominick & Dominick, L.L.C.'s and Dominick & Dominick Advisers, L.L.C.'s Motion to Transfer Hearing Venue on or about September 9, 2004. Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., filed a Sur-Reply in Support of their Motion to Transfer Change Venue on or about September 13, 2004.

Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., filed an Amended Motion to Transfer Venue on or about June 1, 2005. Respondents, Elco Energy Fund, L.P., Elco Management Company, L.L.C., James H. Elliot and Paul E. Elliot, filed a Joinder to the Motion to Transfer Venue on or about May 25, 2005. Claimant filed an Opposition to Respondents' Amended Motion to Transfer Venue on or about June 13, 2005.

CASE SUMMARY

Claimant asserted causes of action including the following: common law fraud, breach of fiduciary duty, negligent misrepresentation, violations of NASD and NYSE Rules of Practice, failure to supervise, breach of contract, negligence, failure to follow instructions, suitability and unauthorized trading. The causes of action related to a recommendation that Claimant purchase Elco Energy Fund, L.P., a hedge fund focused on gas and utilities equities. Claimant alleged that this recommendation was unsuitable and in contrast to her stated investment objective of preservation of capital to fund her retirement. Claimant alleged that Respondents never registered the Elco limited partnership interest to her under applicable federal and state securities laws, nor did Respondents perfect an exception from the registration requirements pursuant to New York State's Blue Sky Laws. In addition, Claimant stated that Respondents would not allow her to liquidate her Elco holdings as the hedge fund declined in 2001, despite her repeated instructions to do so, which caused her account to suffer additional losses.

Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; the Statement of Claim is barred by the statute of limitations, doctrines of laches, waiver, ratification and estoppel; Respondents acted in good faith and without reckless indifference to Claimant; Claimant's alleged losses or damages are due to acts or omissions of Claimant; if Claimant sustained any alleged damages, such alleged damages were the proximate result of Claimant's negligent and/or reckless actions, including the management of her financial affairs; and Respondents did not breach any fiduciary duties to Claimant allegedly imposed by operation of law or contract.

Respondents, Elco Energy Fund, L.P., Elco Management Company, L.L.C., James H. Elliot and Paul E. Elliot, denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant's claims are barred by the doctrines of estoppel, waiver, ratification and assumption of risk; any claim for rescission is time barred by the applicable statute of limitation; in Paragraph 4.4 of the Agreement of Limited Partnership provided that the General Partner, Elco Management Company, LLC, shall not be held liable to any partner for any good faith error of judgment with respect to its investment decisions or any other act or omission apart from gross negligence and willful malfeasance and all Respondents, including Elco Management Company, L.L.C., acted at all times in good faith and never engaged in gross negligence or willful malfeasance.

RELIEF REQUESTED

Claimant requested an award of \$300,000 in compensatory damages, plus interest, punitive damages, attorneys' fees, costs and any other relief the Panel deemed just and equitable.

Respondents, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

Respondents, Elco Energy Fund, L.P., Elco Management Company, L.L.C., James H. Elliot and Paul E. Elliot, requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about September 23, 2004, the Director of Arbitration deferred ruling on Respondents' Motions to Transfer Hearing Venue pursuant to Rule 10315 of NASD Code of Arbitration

On or about July 28, 2005, the Panel denied Respondents' Amended Motion to Transfer Venue.

At the conclusion of Claimant's case-in-chief, Dominick & Dominick, L.L.C., and Dominick & Dominick Advisers, L.L.C., made an oral Motion to Dismiss Claimant's claims for a failure to establish a prima facie case. After deliberation, the panel granted Dominick & Dominick, L.L.C.'s and Dominick & Dominick Advisers, L.L.C.'s Motion to Dismiss.

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 originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims, each and all are denied and dismissed with prejudice in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and
3. 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 fee for each claim:

Initial claim filing fee = \$ 300

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. In this matter, the member firm is Dominick & Dominick, L.L.C.

Member surcharge	= \$ 1,700
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 2,750

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:

Two (2) Pre-hearing sessions with Panel x \$ 1,125 = \$ 2,250

Pre-hearing conferences:	December 2, 2004	1 session
	September 19, 2005	1 session

Eleven (11) Hearing sessions with Panel x \$ 1,125 = \$ 13,375

Hearing Dates:	February 20, 2006	2 sessions
	February 21, 2006	2 sessions
	February 22, 2006	3 sessions
	February 23, 2006	2 sessions
	February 24, 2006	2 sessions

Total Forum Fees = \$ 14,625

The Arbitration Panel has assessed \$ 12,375 of the forum fees jointly and severally to Dominick & Dominick, L.L.C., Dominick & Dominick Advisers, L.L.C., Elco Management Company, L.L.C., and Paul E. Elliot.

The Arbitration Panel has assessed \$ 2,250 of the forum fees jointly and severally to Elco Management Company, L.L.C., and Paul E. Elliot.

FEE SUMMARY

Claimant, Brenda Exline, is liable for:

<u>Initial Filing Fee</u>	= \$ 300
<u>Total Fees</u>	= \$ 300
<u>Less payments</u>	= \$ 1,575
Balance Refunded By NASD Dispute Resolution	= \$ 1,275

Respondent, Dominick & Dominick, L.L.C., is liable for:

Member Fees	= \$ 5,200
Total Fees	= \$ 5,200
Less payments	= \$ 5,200
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, Dominick & Dominick, L.L.C., Dominick & Dominick Advisers, L.L.C., Elco Management Company, L.L.C., and Paul E. Elliot, are jointly and severally liable for:

Forum Fees	= \$ 12,375
Total Fees	= \$ 12,375
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 12,375

Respondents, Elco Management Company, L.L.C., and Paul E. Elliot, are jointly and severally liable for:

Forum Fees	= \$ 2,250
Total Fees	= \$ 2,250
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 2,250

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

ARBITRATION PANEL

Gilbert L. McSwain, Esq. - Public Arbitrator, Presiding Chair
Malcolm Douglas Crawford, II, Esq. - Public Arbitrator
Harold M. Golz, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Gilbert L. McSwain, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Malcolm Douglas Crawford, II, Esq.
Public Arbitrator

Signature Date

Harold M. Golz, Esq.
Non-Public Arbitrator

Signature Date

1/20/06
Date of Service (NASD use only)

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Public Arbitrator, Presiding Chair

3/29/06
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Public Arbitrator

Signature Date

Harold M. Golz, Esq.
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators:

Gilbert L. McSwain, Esq.

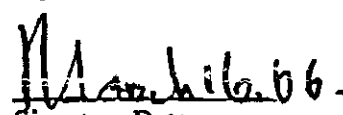
Public Arbitrator, Presiding Chair



Malcolm Douglas Crawford, II, Esq.

Public Arbitrator

Signature Date



Signature Date

Harold M. Golz, Esq.

Non-Public Arbitrator

Signature Date

3/20/06
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Gilbert L. McSwain, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Malcolm Douglas Crawford, II, Esq.
Public Arbitrator

Signature Date



Harold M. Golz, Esq.
Non-Public Arbitrator

3/16/06

Signature Date

3/20/06

Date of Service (NASD use only)