

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kent E. Wilson, and Michael D. Wilson, FBO UTD 1/2/01, Claimants v. Wedbush Morgan Securities Inc. and Frank W. Klescewski, Respondents

Case Number: 04-06226

Hearing Site: Salt Lake City, Utah

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

REPRESENTATION OF PARTIES

For Claimants:

Alexander G. van Broek, Esq.
Law Offices of Alexander G. van
Broek
Oakland, California

For Respondent:

Gary L. Holmes, Esq.
Wedbush Morgan Securities
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 29, 2004

Amended Statement of Claim filed: September 10, 2004

Claimants' Joint Uniform Submission Agreement signed: August 29, 2004

Joint Statement of Answer filed by Respondents: November 3, 2004

Respondent Wedbush Morgan Securities, Inc.'s Uniform Submission Agreement signed: None submitted

Respondent Frank W. Klescewski's Uniform Submission Agreement signed: None submitted

CASE SUMMARY

In their initial Statement of Claim, Claimants alleged fraudulent concealment, breach of fiduciary duty, unsuitable investment, elder abuse and negligence. Claimants' allegations involved the sale of Gateway Academy Charter School California tax and revenue anticipation bonds to Claimants by Respondents.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and set forth affirmative defenses.

RELIEF REQUESTED

In their initial Statement of Claim, Claimants requested \$60,158.00 in compensatory damages, additional compensatory damages in the sum of \$5,000.00 pursuant to California Civil Code Section 1780, unspecified punitive damages, treble damages pursuant to California Civil Code Section 3345, pre- and post-judgment interest and costs, including attorney's fees. In their amended Statement of Claim, Claimants amended their request for damages to limit the total amount of recovery of damages awarded to them of any sort (but not including attorneys fees or costs of arbitration) to a maximum amount of \$100,000.00.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety, expungement of all reference to the above captioned arbitration from Respondents' registration records maintained by the Central Registration Depository ("CRD") and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents, Wedbush Morgan Securities, Inc. and Frank W. Klescewski, did not file with NASD Dispute Resolution, properly executed submission agreements; however, said Respondents are required to submit to arbitration and, Respondents having answered the claim and having appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

On or about September 10, 2004, Claimants filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

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) Claimants' claims against Respondent Frank W. Klescewski are dismissed with prejudice. The Panel found that Respondent Frank W. Klescewski had no liability to Claimants.
- 2) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay to Claimants the sum of \$60,000.00 in compensatory damages.
- 3) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay to Claimants the sum of \$8,200.00 which amount represents interest on the sum of \$60,000.00 for fourteen months at a rate of 10% per annum.
- 4) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay to Claimants the sum of \$17,050.00 which amount represents interest on the sum of \$68,200.00 at a rate of 5% per annum through May 31, 2006.
- 5) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay Claimants the sum of \$120,000.00 in punitive damages. The award of punitive damages is based on recklessness.
- 6) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay Claimants the sum of \$225.00 as reimbursement for filing costs.
- 7) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay Claimants the sum of \$13,596.00 as reimbursement for costs.
- 8) Respondent Wedbush Morgan Securities, Inc. is liable to and shall pay Claimants the sum of \$30,000.00 in attorney's fees.
- 9) This award shall bear interest at a rate of 5% per annum from the May 31, 2006 until payment of this award is made in full.
- 10) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 11) Respondents' request for expungement is denied.
- 12) 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	= \$ 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, the member firm Wedbush Morgan Securities, Inc. 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

Adjournment Fees

The following adjournment fees are assessed:

October 18-20, 2005, adjournment requested by Respondents	= \$ 750.00
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The Panel assessed the adjournment fee jointly and severally to Respondents.

Forum Fees and Assessments

The Panel 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:

(1) Decision on discovery-related motion on the papers with (1) one arbitrator @ \$200.00	= \$ 200.00
Claimant submitted one discovery-related motion	

(1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: January 10, 2005	1 session

(8) Hearing sessions @ \$750.00/session		= \$6,000.00
Hearings:		
	April 4, 2006	2 sessions
	April 5, 2006	2 sessions
	April 6, 2006	2 sessions
	May 3, 2006	2 sessions

Total Forum Fees	= \$ 6,950.00
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The Panel assessed \$6,950.00 of the forum fees to Respondent Wedbush Morgan Securities, Inc.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

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

2. Respondent, Wedbush Morgan Securities, Inc., is charged with the following fees and costs:

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	<u>= \$ 6,950.00</u>
Total Fees	= \$10,500.00
<u>Less payments</u>	<u>= \$(3,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 6,950.00

3. Respondents are charged jointly and severally with the following fees and costs:

<u>Adjournment fees</u>	<u>= \$ 750.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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.

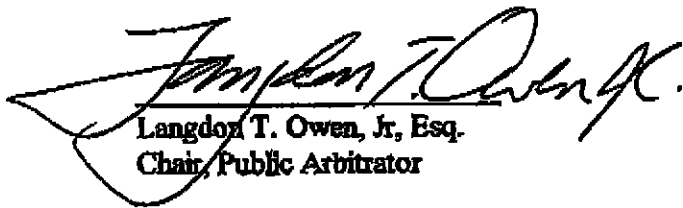
ARBITRATION PANEL

Langdon T. Owen, Jr, Esq.
George J. Karlsvén, Jr.
James D. Searles

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures



Langdon T. Owen, Jr, Esq.
Chair, Public Arbitrator

May 8, 2006
Signature Date

George J. Karlsvén, Jr.
Public Arbitrator

Signature Date

James D. Searles
Non-Public Arbitrator

Signature Date

May 10, 2006
Date of Service

ARBITRATION PANEL

Langdon T. Owen, Jr, Esq.	-	Public Arbitrator, Presiding Chair
George J. Karlsvén, Jr.	-	Public Arbitrator
James D. Searles	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Langdon T. Owen, Jr, Esq.
Chair, Public Arbitrator

Signature Date

George J. Karlsvén, Jr.
Public Arbitrator

Signature Date



James D. Searles
Non-Public Arbitrator

5/9/06

Signature Date

May 10, 2006

Date of Service