

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 04-08457

Mary E. Loughery

Names of the Respondents

Hearing Site: Charlotte, North Carolina

Legacy Financial Services, Inc.
Joseph Reed Karsner, IV

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

REPRESENTATION OF PARTIES

Claimant, Mary E. Loughery, hereinafter referred to as "Claimant", was represented by William B. Young, Esq., Hooper & Weiss, L.L.C., Orlando, Florida.

Respondents, Legacy Financial Services, Inc. ("Legacy") and Joseph Reed Karsner, IV ("Karsner"), hereinafter collectively referred to as "Respondents", were represented by Christopher M. Corchiarino, Esq., Goodell, DeVries, Leech & Dann, L.L.P., Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on December 10, 2004.

Claimant signed the Uniform Submission Agreement on December 31, 2003.

Statement of Answer filed by Respondents on February 4, 2005.

Respondent Karsner signed the Uniform Submission Agreement on February 16, 2005.

A representative of Respondent Legacy executed the Uniform Submission Agreement on January 13, 2005.

Respondents' Motion to Dismiss and Memorandum of Points and Authorities in Support of Respondents' Motion to Dismiss the Statement of Claim were filed on February 4, 2005.

Claimant's Response to the Motion to Dismiss was filed on February 11, 2005.

Claimant's Motion to Amend the Statement of Claim and the Amended Statement of Claim were filed on March 29, 2005.

Respondents Response to Claimant's Amended Statement of Claim was filed on April 13, 2005.

Respondents' filed correspondence regarding the Motion to Dismiss on July 25, 2005.

Claimant's Response to Respondent's July 25, 2005 correspondence was filed on August 9, 2005.

Respondents filed a Reply to Claimant's Response on August 16, 2005.

Claimant's Brief on Choice of Law was filed on September 19, 2005.

Respondents' Brief in Support of the Choice of Law Issue was filed on September 19, 2005.

Respondent's request to decide the choice of law issue on the papers was filed on January 17, 2006.

Claimant's agreement to the request was filed on January 17, 2006.

CASE SUMMARY

Claimant asserted the following causes of action, among others: negligence, breach of contract, breach of fiduciary duty, *respondeat superior*, violation of NASD Conduct Rule 2110, failure to supervise, unsuitability, omissions/misrepresentation, fraudulent inducement, fraudulent concealment and common law fraud. The causes of action relate to the purchase and sale of mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, assumption of risk, contributory/comparative negligence, waiver, estoppel, failure to mitigate, and statute of limitations.

RELIEF REQUESTED

Claimant in her Amended Statement of Claim requested:

Compensatory Damages	\$88,000.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety and that the Panel award Respondents their attorneys' fees and costs incurred in defending this claim.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed to participate in the Discovery Arbitrator Pilot Program.

By Order served on July 20, 2005, the Panel granted Claimant's Motion to Amend the Statement of Claim and deferred ruling on the Motion to Dismiss until testimony was taken under oath.

By Order dated September 2, 2005, the Panel requested that the parties file briefs of the issue of Choice of Law.

AWARD

After considering the pleadings and oral argument, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Maryland law is controlling;
2. The Respondents' Motion to Dismiss is hereby granted and Claimant's claims are dismissed in their entirety with prejudice;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Legacy is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$750.00	= \$1,500.00
Pre-hearing conferences: May 2, 2005 1 session	
July 11, 2005 1 session	
Total Forum Fees	= \$1,500.00

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$375.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Respondent Legacy is assessed and shall pay the following fees:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally assessed and shall pay the following fees:

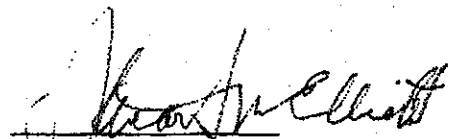
Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

Stuart W. Elliott	-	Public Arbitrator, Presiding Chairperson
Glenn A. Clinefelter	-	Public Arbitrator, Panelist
Michael Charles Wittenberg	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Glenn A. Clinefelter STUART W. ELLIOTT
Public Arbitrator, Presiding Chairperson

3/6/06
Signature Date

Glenn A. Clinefelter
Public Arbitrator, Panelist

Signature Date

Michael Charles Wittenberg
Non-Public Arbitrator, Panelist

Signature Date

March 7 2006
Date of Service (For NASD Dispute Resolution office use only)

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Glenn A. Clinefelter *Shat. W. Elliott*
Public Arbitrator, Presiding Chairperson

Signature Date

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Glenn A. Clinefelter
Public Arbitrator, Panelist

3/7/06
Signature Date

Michael Charles Wittenberg
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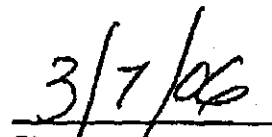
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Michael Charles Wittenberg
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Signature Date

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