

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

New England Securities Corporation  
New England Life Insurance Company

Case Number: 04-08579

Names of the Respondents

Jeffery T. Bonifacino, Richard Hewitt, Robert Porter,  
Michael A. Alfonso, William W. Ilgenfritz, and  
Samuel A. Phillips.

Hearing Site: Wilmington, DE

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Nature of the Dispute: Member and Non-Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimants, New England Life Insurance Company ("NELIC"), and New England Securities Corporation ("New England Securities"), hereinafter collectively referred to as "Claimants", were represented by Paul A. Bucco, Esq., Davis, Bucco & Ardizzi, Conshohocken, Pennsylvania.

Respondents, Jeffery T. Bonifacino ("Bonifacino"), Richard Hewitt ("Hewitt"), and Robert Porter ("Porter"), hereinafter collectively referred to as "Respondents", were represented by Katherine Haennicke, Esq., Tressler, Soderstron, Maloney & Priess, Chicago, Illinois.

Respondent, Michael A. Alfonso ("Alfonso") was represented by Steven J. Schiffman, Esq., Seratelli Schiffman Brown & Calhoun, P.C., Harrisburg, Pennsylvania.

Respondent, William W. Ilgenfritz ("Ilgenfritz"), was represented by Sean E. Summers, Esq., Barley Snyder, L.L.P., York, Pennsylvania.

Samuel A. Phillips was not represented by counsel and appeared *pro se*.

**CASE INFORMATION**

Statement of Claim filed on December 20, 2004.

A representative of Claimant NELIC executed the Uniform Submission Agreement on December 9, 2004.

A representative of Claimant New England Securities executed the Uniform Submission Agreement on December 9, 2004.

Claimants filed a Response to Alfonso's and Ilgenfritz's Motions to Sever on December 12, 2005.

Claimants filed a Supplemental Memorandum in Conjunction with the Motion to Dismiss on January 13, 2006.

Claimants filed a Response to the Renewed Motions to Dismiss and Sever of Respondents Ilgenfritz and Alfonso on February 3, 2006.

Motion to Dismiss filed by Respondents Bonifacino, Hewitt and Porter on February 7, 2005.  
Reply Brief in Support of their Motion to Dismiss filed by Respondents Bonifacino, Hewitt and Porter on November 4, 2005.  
Respondents Bonifacino, Hewitt and Porter filed a Supplemental Brief to their Motion to Dismiss on January 15, 2006.

Statement of Answer and Motion to Dismiss Claimant NELIC's claims filed by Respondent Alfonso on July 14, 2005.  
Respondent Alfonso signed the Uniform Submission Agreement on May 31, 2005.  
Respondent Alfonso filed a Motion to Sever claims as to Respondent Alfonso, and Renewed Motion to Dismiss the claims of NELIC on November 2, 2005.  
Respondent Alfonso again renewed his Motion to Sever and Dismiss on January 11, 2006.

Statement of Answer and Motion to Dismiss Claimant NELIC's claims filed by Respondent Ilgenfritz on June 29, 2005.  
Respondent Ilgenfritz signed the Uniform Submission Agreement on September 22, 2005.  
Respondent Ilgenfritz filed a Motion to Sever claims as to Respondent Ilgenfritz, and Renewed Motion to Dismiss the claims of NELIC on November 14, 2005.  
Renewed Motion to Dismiss filed by Respondent Ilgenfritz on November 28, 2005.  
Respondent Ilgenfritz again renewed his Motion to Sever and Dismiss on January 12, 2006.

Respondent Phillips did not file a Statement of Answer with NASD Dispute Resolution.

### **CASE SUMMARY**

Claimants asserted the following causes of action, among others: breach of contract, unfair competition, breach of duty of loyalty, tortious interference with contractual relations, and conversion. The causes of action relate to the termination of "New England Financial Incentive Career Contracts" signed by Respondents.

Unless specifically admitted in his Statement of Answer, Respondent Alfonso denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimant NELIC is not a member of NASD and is not entitled to participate in arbitration, Claimants' claims are barred by the doctrine of laches, the contract which is in dispute is unenforceable as it was not supported by new and adequate consideration, and Claimants failed to state a claim upon which relief may be granted.

Unless specifically admitted in his Statement of Answer, Respondent Ilgenfritz denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimant NELIC is not a member of NASD and is not entitled to participate in arbitration, Claimants' claims are barred by the doctrine of laches, the contract which is in dispute is unenforceable as it was not supported by new and adequate consideration, and Claimants failed to state a claim upon which relief may be granted.

### **RELIEF REQUESTED**

Claimants in their Statement of Claim requested:

Compensatory Damages	amount unspecified
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

In their Motion to Dismiss, Respondents Bonifacino, Hewitt, and Porter requested that the dismissal of the Statement of Claim and for any other remedy the Arbitration Panel (the "Panel") feels is just and fair.

In their Statements of Answer, Respondents Alfonso and Ilgenfritz requested that the Panel dismiss the Statement of Claim in its entirety and such other relief that is just and equitable.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents, Bonifacino, Hewitt, Porter and Phillips did not file with NASD Dispute Resolution, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On or about January 13, 2006 Claimants discontinued all claims against Respondent Phillips.

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.

### **AWARD**

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

1. All Claimants' claims against Respondents are dismissed with prejudice;
2. Claimants' are liable to and shall pay to Respondents attorneys' fees in the following amounts: \$40,933.28 for Respondents Bonifacino's, Porter's and Hewitt's attorneys' fees; \$5,865.00 for Respondent Alfonso's attorneys' fees; and \$3,080.25 for Respondent Ilgenfritz' attorneys' fees.
3. The parties shall bear their respective costs, 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 = \$ 500.00

#### **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 New England Securities is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,200.00

Total Member Fees = \$4,450.00

#### **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 @ \$1,000.00 = \$2,000.00

Pre-hearing conferences: October 18, 2005 1 session

January 3, 2006 1 session

Total Forum Fees = \$2,000.00

The Panel has assessed \$2,000.00 of the forum fees jointly and severally to Claimants.

### **FEE SUMMARY**

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

Member Fees = \$4,450.00

Total Fees = \$4,450.00

Less payments = \$4,450.00

Balance Due NASD Dispute Resolution = \$ 00.00

2. Claimants are jointly and severally assessed and shall pay the following fees:

Filing Fees = \$ 500.00

Forum Fees = \$2,000.00

Total Fees = \$2,500.00

Less payments = \$1,500.00

Balance Due NASD Dispute Resolution = \$1,000.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule

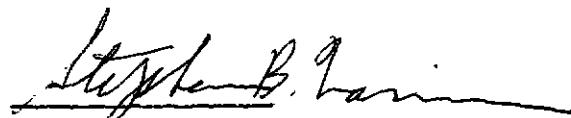
10330(g) of the Code.

**ARBITRATION PANEL**

Stephen B. Narin, Esq.	-	Public Arbitrator, Presiding Chairperson
Peter A. Scarpato, Esq.	-	Public Arbitrator, Panelist
Daniel T. McHugh	-	Non-Public Arbitrator, Panelist

NASD Dispute Resolution

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Award Page 6Concurring Arbitrators' Signatures

Stephen B. Narin, Esq.

Public Arbitrator, Presiding Chairperson

4/14/06

Signature Date

Peter A. Scarpato, Esq.

Public Arbitrator, Panelist

Signature DateDaniel T. McHugh

Non-Public Arbitrator, Panelist

Signature Date4/25/06

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

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Concurring Arbitrators' Signatures

Stephen B. Narin, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Peter A. Scarpato, Esq.  
Public Arbitrator, Panelist

4/20/06  
Signature Date

Daniel T. McHugh  
Non-Public Arbitrator, Panelist

Signature Date

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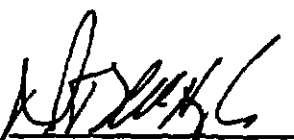
**Concurring Arbitrators' Signatures**

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Stephen B. Narin, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Peter A. Scarpato, Esq.  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Daniel T. McHugh  
Non-Public Arbitrator, Panelist

4/20/2006  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)