

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Nicholas P. Rossi, M.D.,
Nicholas P. Rossi, IRA and
Helen K. Rossi

Case Number: 04-08727

Name of the Respondents

Alan Robert Leff and
Heartland Investment Associates, Inc.

Hearing Site: Des Moines, Iowa

NATURE OF THE DISPUTE

Public Customer vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants Nicholas P. Rossi, M.D. ("N. Rossi"), Nicholas P. Rossi, IRA ("N. Rossi IRA") and Helen K. Rossi ("H. Rossi"), hereinafter collectively referred to as "Claimants"; Thomas H. Walton, Esq. of the firm of Nyemaster, Goode, West, Hansell & O'Brien, P.C., located in Des Moines, Iowa.

Respondents Alan Robert Leff ("Leff") and Heartland Investment Associates, Inc. ("Heartland"), hereinafter collectively referred to as "Respondents"; William T. McCartan, Esq. of the firm of Bradley & Riley, P.C., located in Cedar Rapids, Iowa.

CASE INFORMATION

Statement of Claim filed: December 28, 2004.

Claimants N. Rossi and H. Rossi signed the Uniform Submission Agreement: December 23, 2004.

Claimant N. Rossi IRA signed the Uniform Submission Agreement: February 1, 2005.

Claimants' Resistance to Respondents' Motion to Bar Expert Witness Testimony and for Entry of Partial Award filed on: December 6, 2005.

Claimants' Sur-Reply to Respondents' Motion to Bar Expert Witness Testimony and for Entry of Partial Award filed on: December 22, 2005.

Claimants' Memorandum of Authorities in Support of the Statement of Claim filed on: May 23, 2006.

Claimants' Response to Respondents' Motion for Leave to File Additional Affirmative Defenses filed on: June 9, 2006.

Statement of Answer filed by Respondents on: February 18, 2005.

Respondent Leff signed the Uniform Submission Agreement: March 7, 2005.

Respondent Heartland signed the Uniform Submission Agreement: March 8, 2005.

Respondents' Motion to Bar Expert Witness Testimony and for Entry of Partial Award filed on: November 16, 2005.

Respondents' Reply Brief in Support of Motion to Bar Expert Witness Testimony and for Entry of Partial Award filed on: December 19, 2005.

Respondents' Hearing Brief filed on: December 20, 2005.

Respondents' Motion for Leave to File Additional Affirmative Defenses filed on: June 1, 2006.

Respondents' Supplemental Hearing Brief filed on: June 7, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; misrepresentation; failure to supervise; and, breach of contract. These causes of action related to Respondents recommendations in annuities and mutual funds for Claimants' retirement savings.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The claims are barred by the applicable statutes of limitations;
2. Any liability of Leff should be reduced based on the comparative fault of the Claimants' estate attorney;
3. The Claimants have failed to adequately mitigate their damages;
4. The Claimants' claims are barred by the doctrines of waiver, estoppel and ratification;
5. The Respondents acted in good faith at all times;
6. The Claimants' negligence claims are barred by the economic loss doctrine; and,
7. Heartland properly supervised Leff at all times.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages
Punitive Damages
Interest

In excess of \$3 million
As determined by the Panel
As determined by the Panel

Attorneys' Fees	As determined by the Panel
Other Costs	As determined by the Panel
Other Monetary/Non-Monetary Relief if any:	As the Panel deems just and equitable.

Respondents requested that the Panel deny the claim and order the Claimants to pay all costs and fees associated with the arbitration proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the Pleadings filed in the above matter, the Panel denied Respondents' Motion to Bar Expert Witness Testimony and for Entry of Partial Award on January 5, 2006.

Respondents' Motion for Leave to File Additional Affirmative Defenses was granted at the hearing. In addition, Respondents moved for judgment on the evidence at the close of Claimants' case. The Panel denied the motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the pre-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Alan Robert Leff and Heartland Investment Associates, Inc. are jointly and severally liable for and shall pay to the Claimant, Nicholas P. Rossi, IRA, the sum of \$227,154.00 as compensatory damages;
2. The claims asserted by Nicholas P. Rossi, M.D. and Helen K. Rossi are dismissed and denied in their entirety;
3. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated in this decision; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$ 600.00
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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. Accordingly, Heartland Investment Associates, Inc. is a party and the following member fees are assessed:

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

January 9-13, 2006 adjournment by Claimants	= \$ 1,200.00
Panel assessed as part of final award.	

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) Decisions on discovery-related motions on the papers
with one (1) arbitrator @ \$200.00 = \$ 400.00

Ten (10) Hearing sessions @ \$1,200.00 = \$12,000.00

Hearing Dates:	June 12, 2006	2 sessions
	June 13, 2006	2 sessions
	June 14, 2006	3 sessions
	June 15, 2006	2 sessions
	June 16, 2006	1 session

Total Forum Fees = \$12,400.00

The Panel has assessed \$6,200.00 of the forum fees, jointly and severally, to Nicholas P. Rossi, M.D., Nicholas P. Rossi, IRA and Helen K. Rossi. The remaining \$6,200.00 of the forum fees the Panel has assessed, jointly and severally, to Respondents Alan Robert Leff and Heartland Investment Associates, Inc.

FEE SUMMARY

Claimants Nicholas P. Rossi, M.D., Nicholas P. Rossi, IRA and Helen K. Rossi are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 6,200.00
Total Fees	= \$ 8,000.00
Less payments	= \$ 1,800.00

Balance Due NASD Dispute Resolution = \$ 6,200.00

Respondent Heartland Investment Associates, Inc. is solely liable for:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$ 3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,000.00

Respondents Alan Robert Leff and Heartland Investment Associates, Inc. are jointly and severally liable for:

Forum Fees	= \$ 6,200.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,200.00

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

ARBITRATION PANEL

William H. Tobin, Esq. - Public Arbitrator, Presiding Chairperson
Evonne A. Hurst - Public Arbitrator
John E. Sundeen - Non-Public Arbitrator

Concurring Arbitrators' Signatures

William H. Tobin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Evonne A. Hurst
Public Arbitrator

Signature Date

John E. Sundeen
Non-Public Arbitrator

Signature Date

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

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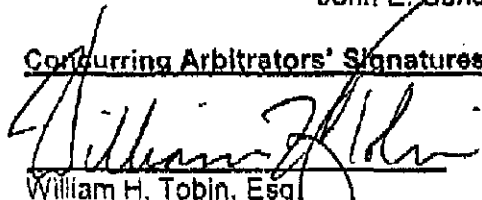
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Concurring Arbitrators' Signatures


William H. Tobin, Esq.
Public Arbitrator, Presiding Chairperson

6-29-06
Signature Date

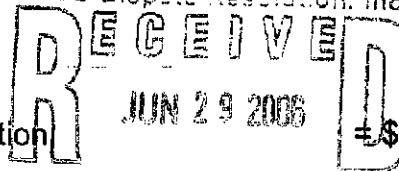
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Signature Date

John E. Sundeen
Non-Public Arbitrator

Signature Date

6/29/06 
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William H. Tobin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Evonne A. Hurst
Public Arbitrator

6/26/06

Signature Date

John E. Sundeen
Non-Public Arbitrator

Signature Date

6/29/06 

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John E. Sundeen - Non-Public Arbitrator

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William H. Tobin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Evonne A. Hurst
Public Arbitrator

Signature Date



John E. Sundeen
Non-Public Arbitrator



Signature Date

6/29/06
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