

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Maryam Lyubarksy (Claimant) v. Quick & Reilly, Inc. and Kevin M. Dowd (Respondents)

Case Number: 04-08821

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant Maryam Lyubarksy hereinafter referred to as "Claimant": Philip M. Giordano, Esq., Reed & Giordano, P.A., Boston, MA.

Respondent Quick & Reilly, Inc. ("Quick & Reilly"): Peter Byer, Esq. and Matthew S. Diggins, Esq., Banc of America Investment Services, Inc., New York, NY.

Respondent Kevin M. Dowd ("Dowd"): William E. Goydan, Esq., Kiran V. Somashekara, Esq., Wolff & Samson PC, West Orange, NJ. Previously represented by Matthew S. Diggins, Banc of America Investment Services, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 31, 2004.

Claimant signed the Uniform Submission Agreement: December 30, 2004.

Joint Statement of Answer filed by Respondent Quick & Reilly and Respondent Dowd on or about: March 8, 2005.

Respondent Quick & Reilly did not submit a signed Uniform Submission Agreement.

Respondent Dowd did not submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: violations of federal and state securities laws, violations of Consumer Protection Act, breach of contract, breach of fiduciary duty, fraud, deceit, negligent misrepresentation, negligence, gross negligence, breach of duty of reasonable care and fair practice, failure to supervise, and control person liability.

Unless specifically admitted in their Answer, Respondents Quick & Reilly and Dowd denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$25,000.00, punitive damages in the amount of \$25,000.00, costs, including filing fees, forum fees, and attorneys' fees, any equitable relief as may be just and proper, and any additional relief which the Arbitrator deems just and proper.

Respondents Quick & Reilly and Dowd requested dismissal of the Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Quick & Reilly and Dowd did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Arbitrator on all issues submitted.

By letter dated October 25, 2005, Claimant notified NASD Dispute Resolution that the parties settled this matter.

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

The parties entered into an agreement to present to the Arbitrator a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Arbitrator grants the motion and enters this award granting the following relief:

1. The parties have entered into a confidential settlement agreement.
2. Claimant's claims are dismissed with prejudice.
3. Each side shall bear its own attorneys' fees and costs. Each side shall bear equally all forum fees accrued prior to October 1, 2005, and Respondent Quick & Reilly shall bear all forum fees accrued after October 1, 2005.
4. The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Kevin M. Dowd's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Kevin M. Dowd must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the Arbitrator has made the following affirmative findings of fact:

[Insert one or more of the following findings, as appropriate]

The claim, allegation, or information is factually impossible or clearly erroneous;

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; or

The claim, allegation, or information is false.

4. Any and all reliefs 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 = \$ 175.00

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, Quick & Reilly, Inc. is a party.

Member surcharge = \$ 875.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 1,000.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with the arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: May 25, 2005 1 session

Total Forum Fees = \$ 450.00

1. Pursuant to the parties' agreement:

- a. Claimant is assessed \$225.00 of the forum fees;
- b. Respondents Quick & Reilly and Dowd are assessed \$225.00 of the forum fees jointly and severally.

Fee Summary

1. Claimant is solely liable for:

| | |
|----------------------|-------------|
| Initial Filing Fee | = \$ 175.00 |
| Forum Fees | = \$ 225.00 |
| Total Fees | = \$ 400.00 |
| <u>Less payments</u> | = \$ 625.00 |
| Refund Due Claimant | = \$ 225.00 |

2. Respondent Quick & Reilly is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 2,625.00 |
| Total Fees | = \$ 2,625.00 |
| <u>Less Payments</u> | = \$ 2,625.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

3. Respondents Quick & Reilly and Dowd are jointly and severally liable for:

| | |
|----------------------------|---------------|
| Forum Fees | = \$ 225.00 |
| Total Fees | = \$ 225.00 |
| <u>Less payments</u> | = \$ 1,250.00 |
| Refund Due Respondent Dowd | = \$ 1,025.00 |

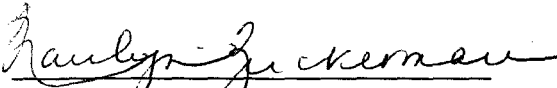
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Marilyn H. Zuckerman, Esq.

- Sole Public Arbitrator

Arbitrator's Signature


Marilyn H. Zuckerman, Esq.
Sole Public Arbitrator

3/1/06
Signature Date

June 6, 2006

Date of Service (For NASD Dispute Resolution use only)

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[Insert one or more of the following findings, as appropriate]

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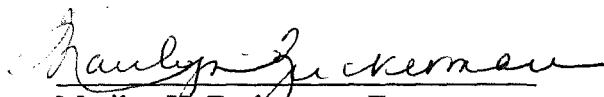
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ARBITRATOR

Marilyn H. Zuckerman, Esq.

- Sole Public Arbitrator

Arbitrator's Signature


Marilyn H. Zuckerman, Esq.
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3/1/06
Signature Date

June 6, 2006
Date of Service (For NASD Dispute Resolution use only)