

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 05-00123

Edward J. Gorman, III, Individually and
as Beneficiary Under the Will of Edward J. Gorman, Jr.
Patrick A. Gorman, Individually, as Beneficiary Under
the Will of Edward J. Gorman, Jr., and as Special
Administrator of the Estate of Edward J. Gorman, Jr.

Names of the Respondents

Hearing Site: Washington, D.C.

A.G. Edwards & Sons, Inc.
Banc of America Investment Services, Inc.
f/k/a Quick & Reilly, Inc.
Morgan Stanley DW, Inc.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Edward J. Gorman, III, Individually and as Beneficiary Under the Will of Edward J. Gorman, Jr. and Patrick A. Gorman, Individually, as Beneficiary Under the Will of Edward J. Gorman, Jr., and as Special Administrator of the Estate of Edward J. Gorman, Jr., hereinafter collectively referred to as "Claimants": Janet K. DeCosta, Esq., Janet K. DeCosta, P.C., Washington, D.C.

For Respondent A.G. Edwards & Sons, Inc. ("AGE"): William S. Port, Vice President – Litigation Counsel, A.G. Edwards & Sons, Inc., St. Louis, Missouri.

For Respondent Banc of America Investment Services, Inc., f/k/a Quick & Reilly, Inc. ("BOA"): Gilbert W. Boyce, Esq., Kutak Rock, LLP, Washington, D.C.

For Respondent Morgan Stanley DW, Inc. ("MSDW"): James A. Murphy, Esq. and Cameron S. Matheson, Esq., LeClair Ryan, P.C., Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on or about: January 7, 2005.

Amended Statement of Claim filed on or about: May 12, 2006.

Claimant Edward J. Gorman, III signed the Uniform Submission Agreement: December 21, 2004.

Claimant Patrick A. Gorman signed the Uniform Submission Agreement: December 21, 2004.

Statement of Answer filed by Respondent AGE on or about: April 25, 2005.

Respondent AGE signed the Uniform Submission Agreement: July 20, 2005.

Statement of Answer filed by Respondent BOA on or about: April 13, 2005.

Respondent BOA signed the Uniform Submission Agreement: May 23, 2005.

Statement of Answer filed by Respondent MSDW on or about: April 13, 2005.
Respondent MSDW did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; violations of the securities laws of the District of Columbia and the states of Missouri, New York, Maryland, California and the commonwealth of Massachusetts; respondeat superior; negligence; breach of fiduciary duty; violations of NYSE Rules 405 and 408; and, violations of NASD Rule 2310. The causes of action relate to, but are not limited to, Claimants' investments in Qualcomm, Lucent Technologies, and Intel Corp. stocks.

Unless specifically admitted in their respective Answers, Respondents AGE, BOA, and MSDW denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$2,000,000.00 from Respondent AGE, compensatory damages in the amount of \$1,000,000.00 from Respondent BOA, and compensatory damages in the amount of \$500,000.00 from Respondent MSDW. Claimants also requested punitive damages, attorneys' fees, forum fees, hearing session fees, costs, interest, and such relief as the undersigned arbitrators (the "Panel") deemed just and proper from all Respondents.

Respondent AGE requested that the Panel issue an Order dismissing Claimants' Statement of Claim in its entirety, award Respondent AGE its costs including attorneys' fees, and such other and further relief as the Panel deemed just and proper.

Respondent BOA requested that the Statement of Claim be dismissed and that Claimants pay all member surcharges and forum fees.

Respondent MSDW requested that the Panel dismiss all of the claims in the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 9, 2006, Claimants filed a Motion to Amend the Statement of Claim to substitute Claimant Audrey F. Gorman, who had been named as the Personal Representative under the will of Edward J. Gorman, Jr., with Claimant Patrick A. Gorman, who was appointed Special Administrator of the Estate of Edward J. Gorman, Jr., by the Commonwealth of Massachusetts, Probate and Family Court. On or about May 12, 2006, the Panel granted Claimants' motion.

On or about June 6, 2006, Claimants advised NASD that they had settled this matter with Respondent AGE.

On or about June 15, 2006, Claimants advised NASD that they had settled this matter with Respondent BOA.

During the evidentiary hearing, Claimants moved to amend the Statement of Claim to include a claim for relief concerning Claimants' active assets account. The Panel denied the motion.

Respondent MSDW did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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

Claimants' Statement of Claim, as amended, is dismissed, with prejudice.

Any and all requests for relief not specifically addressed herein, including Claimants' request for punitive damages, are 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondents AGE, BOA, and MSDW are member firms and parties.

Respondent AGE:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Respondent BOA:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$4,000.00</u>

Total Member Fees = \$7,000.00

Respondent MSDW:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s) that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motions on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
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One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: October 25, 2005 1 session	

Nine (9) Hearing sessions @ \$1,200.00	= \$10,800.00
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Hearing Dates:	September 26, 2006	1 session
	September 27, 2006	2 sessions
	September 28, 2006	2 sessions
	September 29, 2006	2 sessions
	November 9, 2006	2 sessions

Total Forum Fees	= \$12,200.00
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The Panel has assessed \$6,100.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$6,100.00 of the forum fees to Respondent MSDW.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 6,100.00
Total Fees	= \$ 6,700.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 4,900.00

Respondent AGE is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent BOA is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 5,100.00
Balance Due NASD Dispute Resolution	= \$ 1,900.00

Respondent MSDW is solely liable for:

Forum Fees	= \$ 6,100.00
Member Fees	= \$ 5,200.00
Total Fees	= \$11,300.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 2,750.00

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

ARBITRATION PANEL

Michael J. Henke, Esq.	-	Public Arbitrator, Presiding Chairperson
Jerome Nelson	-	Public Arbitrator
George R. Hannaway	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Michael J. Henke, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Jerome Nelson
Public Arbitrator

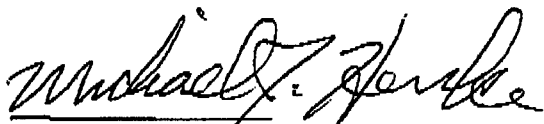
Signature Date

/s/
George R. Hannaway
Non-Public Arbitrator

Signature Date

January 5, 2007
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures



Michael J. Henke, Esq.
Public Arbitrator, Presiding Chairperson

12-21-06

Signature Date

Jerome Nelson
Public Arbitrator

Signature Date


George R. Hannaway
Non-Public Arbitrator

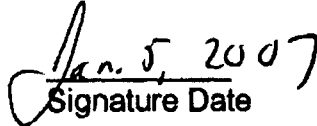
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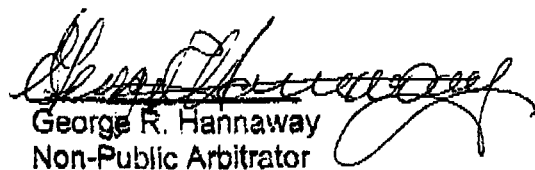
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Michael J. Henke, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jerome Nelson
Public Arbitrator

Signature Date


George R. Hannaway
Non-Public Arbitrator

12/21/06
Signature Date

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