

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 05-03547

Larry Frangos
Linda Kosec
George E. Ginnis and Nancy Ginnis
Samuel J. Pitzulo and Janet M. Pitzulo

Names of the Respondents

Hearing Site: Pittsburgh, Pennsylvania

Butler Wick & Co., Inc.
John Luklan

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

REPRESENTATION OF PARTIES

Claimant Larry Frangos, Linda Kosec, George E. Ginnis and Nancy Ginnis and Samuel J. Pitzulo and Janet M. Pitzulo, hereinafter collectively referred to as "Claimants", were represented by James S. Jones, Esq., Attorney at Law, Poland, Ohio.

Respondents Butler Wick & Co., Inc. (Butler Wick) and John Luklan ("Luklan"), hereinafter collectively referred to as "Respondents", were represented by Michael N. Ungar, Esq. and Michael A. Gross, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on July 8, 2005.

Claimant Larry Frangos signed the Uniform Submission Agreement on May 5, 2005.

Claimant Linda Kosec signed the Uniform Submission Agreement on April 26, 2005.

Claimant George E. Ginnis signed the Uniform Submission Agreement on April 27, 2005.

Claimant Nancy Ginnis signed the Uniform Submission Agreement on April 27, 2005.

Claimant Samuel J. Pitzulo signed the Uniform Submission Agreement on June 30, 2005.

Claimant Janet M. Pitzulo signed the Uniform Submission Agreement on June 30, 2005.

Statement of Answer and Motion to Dismiss filed by Respondents on January 25, 2006.

Respondent Luklan signed the Uniform Submission Agreement on January 24, 2006.

A representative of Respondent Butler Wick executed the Uniform Submission Agreement on January 4, 2006.

Claimants' Motion in Opposition to Respondents' Motion to Dismiss was filed on June 10, 2006.

Respondents' Reply to Opposition to Motion to Dismiss was filed on June 22, 2006.

Respondents' Motion for Attorney's Fees was filed on July 10, 2006.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty, misrepresentation, and failure to supervise. The causes of action relate to the purchase and sale of County of Medina, Ohio Subordinate Housing Revenue Bonds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: statute of limitations, failure to state a claim upon which relief may be granted, Respondents acted in good faith, assumption of risk, failure to mitigate, estoppel, waiver, laches, and the claims are ineligible for arbitration.

RELIEF REQUESTED

Claimants in their Statement of Claim requested compensatory damages in the amount of \$ 160,000.00, lost opportunity costs in the amount of 6% per annum (approximately \$9,600.00 per year), costs, attorneys' fees, punitive damages in the amount of \$5,000,000.00, and any other relief the Panel deems just and proper.

Respondents in their Statement of Answer requested that the Panel dismiss the claims, recommend the expungement of all references to this matter from Respondent Luklan's CRD record, and any other relief the Panel deems just and proper.

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. All claims against Respondents are dismissed with prejudice;
2. Respondents' request for attorneys' fees is denied;
3. Respondent Luklan's request for expungement is denied because, based on the current state of the record, the Panel does not have sufficient information to grant the request;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
5. 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	= \$ 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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Bulter Wick is a party.

Member surcharge	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00
<u>Total Member Fees</u>	<u>= \$9,600.00</u>

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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$3,600.00
Pre-hearing conferences: May 5, 2006	1 session
July 6, 2006	1 session
July 14, 2006	1 session
<u>Total Forum Fees</u>	<u>= \$3,600.00</u>

1. The Panel has assessed \$1,800.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$1,800.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

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

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$1,800.00
Total Fees	= \$2,400.00
Less payments	= \$1,800.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

Member Fees	= \$9,600.00
Total Fees	= \$9,600.00
Less payments	= \$4,100.00
Balance Due NASD Dispute Resolution	= \$5,500.00

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

Forum Fees	= \$1,800.00
Total Fees	= \$1,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,800.00

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

ARBITRATION PANEL

Michael R. Stabile, Jr.	-	Public Arbitrator, Presiding Chairperson
Lewis U. Davis, Jr., Esq.	-	Public Arbitrator, Panelist
Elena M. Colianni, Esq.	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Michael R. Stabile, Jr.

Michael R. Stabile, Jr. ~~2222~~
Public Arbitrator, Presiding Chairperson

7-26-06

Signature Date

Lewis U. Davis, Jr., Esq.
Public Arbitrator, Panelist

Signature Date

Elena M. Colianni, Esq.
Non-Public Arbitrator, Panelist

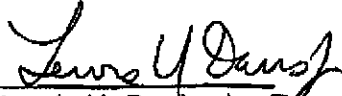
Signature Date

July 27, 2006
Date of Service (For NASD Dispute Resolution office use only)

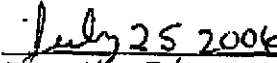
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Signature Date

Lewis U. Davis, Jr., Esq.
Public Arbitrator, Panelist

Signature Date

Elena M. Colianni
Elena M. Colianni, Esq.
Non-Public Arbitrator, Panelist

7-25-06
Signature Date

July 27 2006
Date of Service (For NASD Dispute Resolution office use only)