

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ellen L. Ward-Gagnon (Claimant) vs. Ryan Beck & Co. (Respondent)

Case Number: 05-05342

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant Ellen L. Ward-Gagnon hereinafter referred to as "Claimant": Brian J. Gagnon, Moorestown, NJ.

Ryan Beck & Co. hereinafter referred to as "Respondent": Joseph Rosa, Esq., Ryan Beck & Co., Livingston, NJ.

CASE INFORMATION

Statement of Claim filed on or about: October 14, 2005.

Claimant signed the Uniform Submission Agreement: October 27, 2005.

Reply to Statement of Answer and Motion for Simplified Arbitration filed on or about: April 26, 2006.

Sur-reply to Respondent's reply filed on or about: May 4, 2006.

Respondent's Statement of Answer and Request for Simplified Arbitration filed on or about: January 20, 2006.

Respondent signed the Uniform Submission Agreement: January 20, 2006.

Response to Claimant's reply filed on or about: April 28, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, failure to supervise and negligence. The causes of actions relate to mutual funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$5,976.47, punitive damages in the amount of \$5,976.47, treble damages in the amount of \$17,929.41. On

April 26, 2006, Claimant submitted an amendment to their Statement of Claim and requested \$5,244.93 in compensatory damages as well as punitive and treble damages, a refund of the 1 ½% account management fee from the time of inception to March 9, 2005 which is about \$2,000.00 and costs.

Respondent requested dismissal of the Statement of Claim in its entirety with prejudice, attorneys' fees and filing fees.

OTHER ISSUES CONSIDERED AND DECIDED

On April 10, 2006, the Arbitrator granted the parties request to proceed with this case as a simplified arbitration.

The parties have agreed that the Award in this matter may be executed or that a handwritten, signed Award may be entered.

AWARD

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

1. Respondent shall pay to Claimant compensatory damages in the amount of \$3,057.68 representing \$1,782.90 in lost earnings on the withheld amount and a return of \$1,274.78 of management fees.
2. Claimant's claim for indemnification, which is deemed premature at this time, is denied without prejudice.
3. Any and all relief not specifically addressed herein, including punitive and treble 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	= \$ 150.00
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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 event giving rise to the dispute. Accordingly, Ryan Beck & Co. is a party.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 750.00

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

One (1) Pre-hearing session with Arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: April 10, 2006 1 session	
Total Forum Fees	= \$ 450.00

1. The Arbitrator has assessed \$225.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$225.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 225.00
Total Fees	= \$ 375.00
<u>Less payments</u>	<u>= \$ 600.00</u>
Refund Due Claimant	= \$ 225.00

2. Respondent is solely liable for:


Member Fees	= \$ 1,350.00
Forum Fees	= \$ 225.00
Total Fees	= \$ 1,575.00
<u>Less payments</u>	<u>= \$ 2,350.00</u>
Refund Due Respondent	= \$ 775.00

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

ARBITRATOR

Howard Breindel, Esq. - Sole Public Arbitrator

Arbitrator's Signature



Howard Breindel, Esq.
Sole Public Arbitrator

6/5/06

Signature Date

June 7, 2006

Date of Service (For NASD Dispute Resolution use only)