

NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Name of Claimant

Advanced Management, Inc.

96-05640

Name of Respondents

Primerica Financial Services Investments
Boston Alexander

REPRESENTATION

Claimant Advanced Management, Inc. ("AMI") was represented by Robert E. DeRight, Jr., Esq., New York, NY.

Respondent Primerica Financial Services Investments ("PFSI") was represented by Michael Waldman, Esq. of Fried, Frank, Harris, Shriver & Jacobsen of Washington, D.C.

Respondent Boston Alexander ("Alexander") was represented by William A. Davis, Esq. of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. of Washington, D.C.

CASE INFORMATION

Statement of Claim filed: December 17, 1996.

Claimant's Submission Agreement signed on: December 30, 1996.

Amended Statement of Claim filed: July 31, 1997.

Statement of Answer filed by Respondent PFSI on February 12, 1997.

Respondent PFSI's Submission Agreement was signed on January 10, 1997.

Amended Statement of Answer filed by Respondent PFSI on December 2, 1997.

Statement of Answer filed by Respondent Alexander on February 12, 1996.

Respondent Alexander's Submission Agreement was signed on January 31, 1997.

Amended Statement of Answer filed by Respondent Alexander on August 28, 1997.

HEARING INFORMATION

Hearing Dates/Sessions: September 17, 1997 - One Session
 December 3, 1997 - Two Sessions
 December 4, 1997 - Two Sessions

Hearing Location: NASD Regulation, Inc., Washington, D.C.

CASE SUMMARY

Claimant alleged, among other things, breach of contract, breach of oral contract and negligence. Claimant alleged that, on April 19, 1993, Claimant had provided two checks of \$150,000 to Respondent PFSI's agent Respondent Boston Alexander for investment in MFS Bond and Government Securities Funds. Claimant alleged that a third check had also been issued by Claimant on April 19, 1993 and that this check had been payable to Respondent PFSI. Claimant alleged that Respondents acted wrongfully and improperly in opening up an account for Claimant's accountant Desmond Gabiddon ("Gabiddon") in connection with this third check. Claimant alleged that Mr. Gabiddon was not authorized to use these funds and that Respondents were liable for Claimant's losses.

Respondents moved to dismiss on collateral estoppel grounds, arguing that the very same issue had been fully litigated and decided against Claimant in a Virginia state court trial between Claimant and Gabiddon. Respondents also moved to dismiss this Claim on statute of limitations grounds, arguing that Claimant's claims were time barred under Virginia statute of limitations provisions.

Respondents denied Claimant's factual allegations. Respondents asserted that Claimant's President John Lin had been fully aware of and approved Gabiddon's use of this \$150,000. Respondents pointed to a "Confidential Agreement" dated April 19, 1993, signed by both Lin and Gabiddon, in which Lin acknowledged that he was giving the \$150,000 to Gabiddon for "purposes privately discussed and agreed upon by John Lin." Respondents also noted various other documents supporting Lin's knowledge and consent, including a March 4, 1994 letter from Gabiddon to Lin. In addition, Respondents asserted that, even if Lin was truthful in maintaining that Gabiddon had defrauded him, there was no evidence that Respondent Alexander or anyone at PFSI had any knowledge of Gabiddon's wrongdoing. Respondents argued that, consistent with PFSI's procedures, Respondents Alexander and PFSI properly processed the paperwork that Claimant's accountant Gabiddon had provided.

RELIEF REQUESTED

Claimant requested an award in the amount of \$150,000 against Respondents jointly and severally, plus interest, attorney's fees, and costs.

Respondents requested that this Claim be dismissed. In addition, Respondents requested that they be awarded all their costs and expenses, including reasonable attorney's fees incurred in defending against this Claim.

OTHER ISSUES CONSIDERED & DECIDED

By letter dated July 11, 1997, the panel granted Claimant's request for Postponement of the hearing which was originally scheduled for July 15 and 16, 1997.

On August 1, 1997, Claimant's Motion to Amend its Statement of Claim was received. The Panel granted the Motion to Amend by letter dated September 2, 1997.

Respondents PFSI and Alexander filed Motions to Dismiss Claimant's Amended Statement of Claim for Failure to Comply with the Applicable Statute of Limitations and on Collateral Estoppel Grounds. Oral argument was heard by the Panel on September 17, 1997. The Panel thereafter denied the Motions to Dismiss.

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. In either case, the parties have agreed to receive conformed copies of the Award while the original remain on file with the NASD.

AWARD

After considering the pleadings, testimony and evidence presented at the hearing, the Panel, in full and final resolution of the issues submitted by the parties, finds in favor of Respondents PFSI and Alexander and determines:

1. That Claimant's claim is denied in its entirety;
3. That any and all claims that are not specifically addressed are denied in their entirety; and
2. That the parties shall bear their respective costs, except forum fees which are specifically addressed below.

FORUM FEES

Pursuant to Rules 10332(c) and 10205(c) of the Code of Arbitration Procedure, the following Forum Fee are assessed:

[5 sessions x \$750 = \$3,750] = \$3,750 Total Forum Fees

Respondent PFSI paid its Member Surcharge fee of \$350.

Forum Fees are assessed equally between Claimant and Respondent PFSI as follows:

Claimant is assessed the amount of \$1,875. Claimant is entitled to offset this amount with his hearing session deposit of \$750, so that the amount due from Claimant as forum fees is \$1,125.

Respondent PFSI is assessed forum fees in the amount of \$1,875.

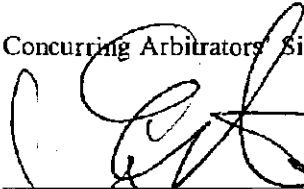
Respondent Alexander is not assessed forum fees.

Fees are payable to NASD Regulation, Inc.

DATE AWARD SIGNED:

JAN 12, 1998

Concurring Arbitrators' Signatures



Marvin Elster, Esq. - Chairperson
Public Arbitrator

James F. Tucker - Panelist
Public Arbitrator

Wendie L. Wachtel - Panelist
Industry Arbitrator

Date Award served by NASD Regulation:

January 21, 1998

FORUM FEES

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Respondent PFSI is assessed forum fees in the amount of \$1,875.

Respondent Alexander is not assessed forum fees.

Fees are payable to NASD Regulation, Inc.

DATE AWARD SIGNED:

Concurring Arbitrators' Signatures

1-12-98

Marvin Elster, Esq. - Chairperson
Public Arbitrator

James F. Tucker
James F. Tucker - Panelist
Public Arbitrator

Wendie L. Wachtel - Panelist
Industry Arbitrator

Date Award served by NASD Regulation:

January 26, 1998

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Pursuant to Rules 10332(c) and 10205(c) of the Code of Arbitration Procedure, the following Forum Fee are assessed:

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Public Arbitrator

James F. Tucker - Panelist
Public Arbitrator

1-12-98

Wendie L. Wachtel
Wendie L. Wachtel - Panelist
Industry Arbitrator

Date Award served by NASD Regulation:

January 21, 1998