

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Dalager Engineering Company and Dalager Investments, Inc.

and

98-00338
Omaha, Nebraska

Names of Respondents

Hanifen, Imhoff Inc. n/k/a
Hanifen, Imhoff Clearing Corp.
Douglas William Klares
Shane Tyrone Ferras
Frank John Casillo
Angelo John Bosco
Scott Hudson Follett
Joseph J. Tuozzo
Stephen Craig Palumbo
Mark Arthur Hanna
Brian Douglas Scanlon

Nature of the Dispute: Customers vs. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Dalager Engineering Company and Dalager Investments, Inc. ("**Claimants**") were represented by Bruce Pearson, Fargo, North Dakota.

Hanifen, Imhoff Inc. ("**Hanifen**") was represented by Steven Plissey, Esq., Williams Youle & Koenigs, Denver, Colorado.

Douglas William Klares ("**Klares**") was not served with process so he did not appear.

Shane Tyrone Ferras ("**Ferras**") was not served with process so he did not appear.

Frank John Casillo ("**Casillo**") appeared *pro se*.

Angelo John Bosco ("**Bosco**") was not served with process so he did not appear.

Scott Hudson Follett ("**Follett**") appeared *pro se*.

Joseph J. Tuozzo ("**Tuozzo**") appeared *pro se*.

Stephen Craig Palumbo ("**Palumbo**") appeared *pro se*.

Mark Arthur Hanna ("**Hanna**") was not served with process so he did not appear.

Brian Douglas Scanlon ("**Scanlon**") appeared *pro se*.

CASE INFORMATION

The Statement of Claim was filed on or about January 28, 1998. The Submission Agreements of Claimants Dalager Engineering Company and Dalager Investments, Inc., were signed on or about October 18, 2000.

The Statement of Answer and Motion to Dismiss was filed by Respondent, Hanifen, Imhoff Inc., on or about September 9, 1998. The Submission Agreement of Respondent, Hanifen, Imhoff Inc., was signed on or about September 10, 1998.

Respondent, Douglas William Klares, did not file an Answer.

Respondent, Shane Tyrone Ferras, did not file an Answer.

Respondent, Frank John Casillo, did not file an Answer.

Respondent, Angelo John Bosco, did not file an Answer.

Respondent, Scott Hudson Follett, did not file an Answer.

Respondent, Joseph J. Tuozzo, did not file an Answer.

The Statement of Answer was filed by Respondent, Stephen Craig Palumbo, on or about October 29, 1998. The Submission Agreement of Respondent, Stephen Craig Palumbo, was signed on or about November 3, 1998.

Respondent Palumbo's Motion to Dismiss was filed on or about October 29, 1998. Claimants' Response to Palumbo's Motion to Dismiss was filed on or about November 12, 1998.

Respondent, Mark Arthur Hanna, did not file an Answer.

Respondent, Brian Douglas Scanlon, did not file an Answer.

CASE SUMMARY

Claimants asserted the following causes of action: securities fraud; misrepresentation; negligence; failure to supervise; deceptive sales practices; breach of fiduciary responsibility; unauthorized trading and transfer of funds. The causes of action relate to the order execution of penny stocks. Claimants alleged that Respondents made unauthorized trading which led to losses in their accounts.

Unless specifically admitted in its Answer, Respondent, Hanifen, Imhoff Inc., denied the allegations made in the Statement of Claim and asserted the following defenses: The Statement of Claim failed to state a claim upon which relief can be granted; Hanifen Clearing is not in any way liable for the actions of the other respondents; Claimants' claims are barred by the doctrines of estoppel, assumption of risk, waiver and laches; Claimants' claims are barred by claimants' failure to mitigate their damages, if any; Claimants agreed that Colorado law would govern this arbitration; and allegations not admitted are denied.

Respondent, Stephen Craig Palumbo, denied the allegations set forth in the Statement of Claim. Respondent Palumbo specifically stated the following:

My name is only mentioned once, in the allegation section, where claimant alleges securities fraud, failure to supervise, etc., all claims are untrue.

RELIEF REQUESTED

Claimants requested an award in the amount of \$289,000.00 in compensatory damages, plus \$50,000.00 in punitive damages and \$30,000.00 in other costs that the Panel deems appropriate.

Respondent, Hanifen, Imhoff Inc., requested that the claims asserted against it be denied and that it be awarded attorney fees pursuant to claimants' various agreements to pay such fees, expert witness fees, costs and such further relief as the Panel deems appropriate.

Respondent, Steven Craig Palumbo, requested that the claims asserted against him be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Brian Douglas Scanlon, filed a voluntary petition in United States Bankruptcy Court on or about August 11, 1998, and is subject to an automatic stay. The Panel did not adjudicate any claims against Respondent Scanlon.

Respondent, Joseph J. Tuozzo, filed a voluntary petition in United States Bankruptcy Court on or about December 28, 1998, and is subject to an automatic stay. The Panel did not adjudicate any claims against Respondent Tuozzo.

Respondent, Scott Hudson Follett, filed a voluntary petition in United States Bankruptcy Court on or about January 8, 1998, and is subject to an automatic stay. The Panel did not adjudicate any claims against Respondent Follett.

Respondent, Frank John Casillo, filed a voluntary petition in United States Bankruptcy Court on or about January 21, 1999, and is subject to an automatic stay. The Panel did not adjudicate any claims against Respondent Casillo.

At the conclusion of the pre-hearing conference on February 3, 1999, the Panel dismissed Respondent, Hanifen, Imhoff Inc., with prejudice. By letter dated February 4, 1999, the Panel made the following ruling:

The Arbitration Panel has carefully considered Hanifen, Imhoff Inc.'s Motion to Dismiss, Stephen Palumbo's Motion to Dismiss and all related submissions as well as the oral arguments made by the parties during the pre-hearing conference yesterday. The Arbitration Panel grants Hanifen, Imhoff Inc.'s Motion to Dismiss so that Claimants' claims against Hanifen, Imhoff Inc. are dismissed with prejudice. The Arbitration Panel is considering Stephen Palumbo's Motion to Dismiss and after the Arbitrators make a determination, I will advise you of their decision. Please be advised that the audiotapes submitted by the Claimants have been forwarded to the Arbitrators for their review.

On or about June 7, 1999, the Panel ordered this matter placed on inactive status pending the resolution of service issues.

By letter dated March 4, 2003 addressed to the Claimant, the NASD requested an explanation of the current status of this matter within thirty (30) calendar days.

By letter dated March 25, 2003, Bruce Pearson, Claimants' representative, specifically stated the following:

This case is very much open and we are pursuing a resolution.

Respondent, Stephen Craig Palumbo, filed a voluntary petition in United States Bankruptcy Court on or about April 13, 2003, and is subject to an automatic stay. The Panel did not adjudicate any claims against Respondent Palumbo.

By letter dated July 15, 2003, the Panel made the following ruling:

A telephone pre-hearing conference was held on Wednesday, June 18, 2003, at 10:00 AM Central time. The following persons were present: Mr. Don Dalager (Claimant), Mr. Joseph Kirschenbaum (Arbitrator), Mr. Norman Veitzer (Arbitrator), and Ms. Felicia Fox (NASD Staff). There were no other parties represented. After consideration of the Claimant's requests and the documents filed to date, the panel unanimously orders as follows:

1. Claimant has 60 days from the date of this Order to effect service of this matter on the Respondents and provide evidence of service to the Panel; and
2. In the event that proof of such service is not provided as ordered, the Panel will dismiss this matter.

By letter dated September 18, 2003, the Panel made the following ruling:

1. Claimant and/or his designated representative have 45 days from the date of this order to effect service of this matter on the respondents and provide evidence of service to the Panel; and
2. In the event service is not provided as ordered, the Panel will dismiss the matter.

By letter dated May 14, 2004 to the Claimant, the Panel made the following:

The Panel has granted your Motion for Postponement (May 17, 2004 hearing) in the above-captioned case. The postponement fee has been waived.

However, the Claimant must comply with the following:

1. Please provide the NASD Dispute Resolution Office with written documentation from the agencies or state departments you are working with in pursuing this matter; and
2. Pursuant to Rule 10032 of the NASD Code of Arbitration Procedure, the Panel has ordered that fifty percent (50%) of the hearing deposit (\$375.00) must be received in the NASD Dispute Resolution Office.

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitration have determined that Respondents, Douglas William Klares, Shane Tyrone Ferras, Angelo John Bosco and Mark Arthur Hanna have not been properly served with the Statement of Claim pursuant to Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondents, Douglas William Klares, Shane

Tyrone Ferras, Angelo John Bosco and Mark Arthur Hanna have not received due notice of the hearing as required under Rule 10315 of the Code.

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(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

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

1. Claimants' claims, each and all, against Respondent, Douglas William Klares, are dismissed without prejudice;
2. Claimants' claims, each and all, against Respondent, Shane Tyrone Ferras, are dismissed without prejudice;
3. Claimants' claims, each and all, against Respondent, Angelo John Bosco, are dismissed without prejudice;
4. Claimants' claims, each and all, against Respondent, Mark Arthur Hanna, are dismissed without prejudice;
5. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and
6. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$200.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Hanifen, Imhoff Inc.

Member surcharge	\$	1,500.00
Pre-hearing process fee	\$	<u>600.00</u>
Total Member Fees	\$	2,100.00

Adjournment Fees

Adjournments requested during these proceedings:

June 15-16, 1999 Hearing Dates adjournment requested by Claimants
(waived by the Panel) = \$ 750.00

May 17, 2004 Hearing dates adjournment requested by Claimants
(waived by the Panel) = \$ 1,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

4 (Four) Pre-hearing sessions with Panel	X	750.00	\$	3,000.00
January 20, 1999	1 session			
February 3, 1999 (\$250 waived)	1 session			
June 18, 2003	1 session			
November 18, 2003 (\$750 waived by Panel)	1 session			
Total Forum Fees			\$	<u>3,000.00</u>

The Arbitration Panel has assessed \$1,000.00 of the forum fees to Dalager Engineering Company and Dalager Investments, Inc., jointly and severally.

The Arbitration Panel has assessed \$1,000.00 of the forum fees to Hanifen, Imhoff Inc.

Fee Summary

Claimants, Dalager Engineering Company and Dalager Investments, Inc., are jointly and severally liable for:

Initial Filing Fee	= \$	200.00
<u>Forum Fees</u>	= \$	<u>1,000.00</u>
Total Fees	= \$	1,200.00
<u>Less payments</u>	= \$	<u>-1,325.00</u>
Refund due to the Claimant	= \$	125.00

Respondent, Hanifen, Imhoff Inc., is liable for:

Member Fees	= \$	2,100.00
<u>Forum Fees</u>	= \$	<u>1,000.00</u>
Total Fees	= \$	3,100.00
<u>Less payments</u>	= \$	<u>-1,500.00</u>
Balance Due NASD Dispute Resolution	= \$	1,600.00

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

ARBITRATION PANEL

Norman Veitzer, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Loren E. Dessonville, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Norman Veitzer, Esq.
Norman Veitzer, Esq.
Public Arbitrator, Presiding Chair

09/03/04
Signature Date

/s/ Richard M. Duxbury, Esq.
Richard M. Duxbury, Esq.
Public Arbitrator

09/03/04
Signature Date

/s/ Loren E. Dessonville, Esq.
Loren E. Dessonville, Esq.
Non-Public Arbitrator

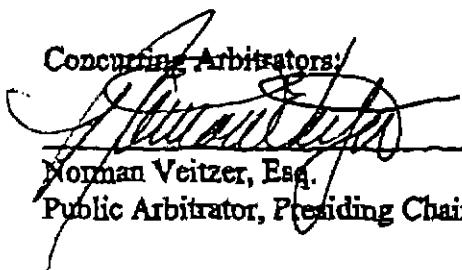
09/07/04
Signature Date

09/07/04
Date of service

ARBITRATION PANEL

Norman Veitzer, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Loren E. Dessonville, Esq. - Non-Public Arbitrator

~~Concurring Arbitrators:~~


Norman Veitzer, Esq.
Public Arbitrator, Presiding Chair

9/3/04
Signature Date

Richard M. Duxbury, Esq.
Public Arbitrator

Signature Date

Loren E. Dessonville, Esq.
Non-Public Arbitrator

Signature Date

Date of service

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Richard M. Duxbury, Esq. - Public Arbitrator
Loren E. Dessonville, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Norman Veitzer, Esq.
Public Arbitrator, Presiding Chair



Richard M. Duxbury, Esq.
Public Arbitrator

Signature Date

9-03-04

Signature Date

Loren E. Dessonville, Esq.
Non-Public Arbitrator

Signature Date

Date of service

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Public Arbitrator, Presiding Chair

Signature Date

Richard M. Duxbury, Esq.
Public Arbitrator

Signature Date

Loren E. Dessonville
Loren E. Dessonville, Esq.
Non-Public Arbitrator

9/7/04
Signature Date

Date of service