

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Dana L. Fuller, Jr., and Dana L. Fuller Manufacturing Co. (Claimants) vs. Frank M. Orrell, Orrell & Co., Inc., Matthew Neal, and Does 1 through 100, inclusive (Respondents).

Case Number: 99-03068

Hearing Site: San Francisco, California.

REPRESENTATION OF PARTIES

For Claimants: Thomas A. Trapani, Esq.
Rankin, Sproat, Mires & Trapani
Oakland, California

For Respondents Frank M. Orrell and Orrell & Co., Inc.: William P. Torngren, Esq.
Law Offices of William P. Torngren
Sacramento, California

Respondent Matthew G. Neal did not retain counsel.

Despite Claimants' naming "Does 1 through 1000, inclusive," as respondents, no additional respondents were specifically identified by Claimants.

CASE INFORMATION

Statement of Claim filed on or about: July 6, 1999

Amended Statement of Claim filed on or about: August 9, 1999

Claimant executed the Uniform Submission Agreement: August 6, 1999

Joint Statement of Answer to Claimant's Amended Statement of Claim filed by Respondents

Frank M. Orrell and Orrell & Co., Inc., on or about: September 29, 1999

Respondent Matthew G. Neal did not file a Statement of Answer

Respondents did not execute Uniform Submission Agreements.

CASE SUMMARY

Claimants asserted the following causes of action against all Respondents:

Fraud; professional negligence; breach of fiduciary duty; intentional infliction of emotional distress; negligent infliction of emotional distress; violation of California Welfare and Institutions Code section 15600 et seq.

Claimants asserted the following causes of action against Respondents Frank M. Orrell and Orrell & Co., Inc.:

Breach of implied-in-fact agreement; breach of third-party beneficiary contract; violation of California Corporate Code section 25400 et seq.; negligent supervision.

The causes of action relate to investments in penny stocks and companies of which Respondents allegedly were owners and/or principals.

Except as otherwise specifically admitted in their Answer, Frank M. Orrell and Orrell & Co., Inc. denied the allegations made in the Amended Statement of Claim and asserted the following defenses:

Claimants' claims are barred by all applicable statutes of limitations; Claimants' failure to timely object to any of the transactions of which they complain constitutes a ratification of these transactions and a waiver or estoppel of Claimants' right to any recovery sought in the Statement of Claim; Claimants' acted negligently and Respondents are entitled to a reduction of any award in proportion to Claimants' fault; and Claimants had a duty to mitigate damages.

RELIEF REQUESTED

In their Statement of Claim and Amended Statement of Claim Claimants requested:

Compensatory Damages	To be determined by the panel.
Punitive Damages	To be determined by the panel.
Attorneys' Fees	To be determined by the panel.
Other Costs	To be determined by the panel.
Other Monetary/Non-Monetary Relief if any	To be determined by the panel.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Orrell & Co., Inc., failed to file with the NASD Dispute Resolution, Inc. Office of Dispute Resolution a properly executed submission to arbitration, but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The arbitration as against Frank M. Orrell has been stayed pursuant to bankruptcy proceedings. The panel specifically reserves the right, as against Frank M. Orrell, to rule on all claims when the bankruptcy stay is lifted.

As to the claims of Breach of Fiduciary Duty and Negligent Supervision, the Claimants are awarded and Respondent Orrell & Co. shall pay to Claimant the sum of \$41,992.

All other claims in the Statement of Claim are dismissed as against Respondent Orrell & Co.

Each and every claim in the Statement of Claim is dismissed as against Respondent Matthew Neal.

The panel declines to refer Respondents Orrell & Co. and Matthew Neal for disciplinary proceedings.

Respondent Orrell & Co. shall reimburse the \$250 Initial Filing Fee paid by Claimants. Each side shall bear its own attorney's fees.

Hearing and forum fees are awarded as follows: Respondent Orrell & Co. is responsible for all forum fees, filing fees and hearing fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$250.
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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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1200.
Pre-hearing process fee	= \$600.

Hearing process fee = \$2000.

Adjournment Fees

Adjournments requested during these proceedings:

January 8, 2001, Hearing Date, adjournment by Respondent Orrell & Co. = \$1000.

Forum Fees and Assessments

The Arbitrator 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:

2 Pre-hearing sessions with a single arbitrator x \$450 = \$900.

Pre-hearing conferences:

October 3, 2000 1 session

October 10, 2000 1 session

6 Pre-hearing sessions with Panel x \$1000 = \$6,000.

Pre-hearing conferences:

June 16, 2000 1 session

October 2, 2000 2 sessions

October 12, 2000 1 session

January 2, 2001 1 session

January 26, 2000 1 session

14 Hearing sessions x \$1000 = \$14,000.

Hearing Dates:

October 16, 17, 18, 2000 6 sessions

April 2, 3, 4, 5, 2001 8 session

Total Forum Fees = \$20,900.

The Arbitrator Panel has assessed \$20,900 of the forum fees to

Fee Summary

1. Claimants are not liable for fees.

Initial Claim Filing Fee = \$250.

Hearing Deposit = \$1000.

Balance Due Claimants from NASD = \$1,000.

(As stated above, Respondent Orrell & Co. shall reimburse the \$250 Initial Filing Fee paid by Claimants.)

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2. Respondent Orrell & Co. is solely liable for:

Member Fees = \$3,800.

Adjournment Fee = \$1,000.

Forum Fees = \$20,900.

Total Fees = \$25,700.

Less payments = \$3,800.

Balance Due NASD Dispute Resolution, Inc. = \$21,900.

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures



Andrew E. Tanenbaum, Esq.
Public Arbitrator, Presiding Chair

5/2/01

Signature Date

David J. Anderson
Public Arbitrator

Signature Date

Bradley C. Mitchell
Industry Arbitrator

Signature Date

Date Served:

MAY 07 2001

NASD Dispute Resolution, Inc.

Arbitration No.

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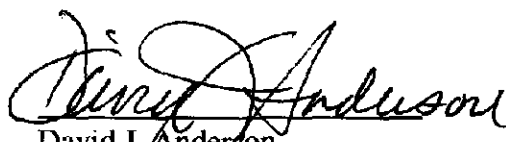
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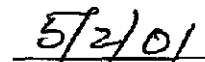
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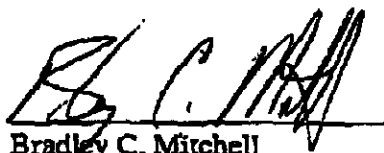
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