

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

John W. Mehlhouse and Margaret E. Mehlhouse

and

00-00949
Minneapolis, Minnesota

Name of Respondent

U.S. Bancorp Piper Jaffray, Inc.

REPRESENTATION OF PARTIES

John W. Mehlhouse and Margaret E. Mehlhouse ("**Claimants**") were represented by Donald H. Walser, Esq., Kraft, Walser, Hettig & Honsey, PLLP, Hutchinson, Minnesota.

U.S. Bancorp Piper Jaffray, Inc. ("**Respondent**") was represented by Mark S. Reed, Esq., U.S. Bancorp Piper Jaffray, Inc., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about March 3, 2000. Claimants' Response to Motion to Dismiss was filed on or about April 27, 2000. Submission Agreement of Claimant John W. Mehlhouse and Margaret E. Mehlhouse was signed on February 23, 2000.

Answer and Affirmative Defenses of U.S. Bancorp Piper Jaffray, Inc. was filed on or about April 17, 2000. Motion of U.S. Bancorp Piper Jaffray, Inc. to Dismiss Statement of Claim was filed on or about April 17, 2000. Submission Agreement of Respondent U.S. Bancorp Piper Jaffray, Inc. was signed on April 13, 2000 by Mark S. Reed.

CASE SUMMARY

Claimants alleged that on February 4, 1999, the investment executive which Respondent had assigned to their account, Paul J. Cramer, sold all of the shares in the Income Fund of America and invested the proceeds in other investments. Claimants alleged that these transactions were made without their direction, approval or even their knowledge.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that it acted properly at all times with respect to the Claimants' account and the transaction which is alleged to have been unauthorized. It was also stated that any unauthorized sale by Mr.

Cramer was outside the scope of his employment and in violation of applicable rules and regulations as well as the policies and procedures of Respondent. Respondent asserted affirmative defenses, including, but not limited to: waiver, estoppel, ratification and laches;

RELIEF REQUESTED

Claimants requested an award in the amount of \$18,025.19, plus attorneys' fees in the amount of \$6,000.00.

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its reasonable attorneys' fees, costs and expenses incurred in defending this matter..

OTHER ISSUES CONSIDERED & DECIDED

Respondent filed a Motion to Dismiss at the time of filing its Answer. After considering the Motion to Dismiss and the Response filed on behalf of the Claimants, the undersigned arbitrator heard oral argument on the Motion via telephone on October 19, 2000.

AWARD

After considering the pleadings, the arguments presented at the telephonic hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Motion of Respondent U.S. Bancorp Piper Jaffray, Inc. to Dismiss the claim of Claimants, on the merits, be, and the same hereby is, granted. The Claimant raised the matter of the sufficiency of the notice of the defenses and position(s) to be taken by the Respondent. Although a ruling thereon is now moot, I do find that requisite notice has been given by Respondent.
2. 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.
3. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is U.S. Bancorp Piper Jaffray, Inc.

Member surcharge = \$400.00

Forum Fees and Assessments

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

Two (2) Pre-hearing session(s) with a single arbitrator x \$450.00 = \$900.00

Pre-hearing conference(s): July 25, 2000 1 session
October 19, 2000 1 session

Total Forum Fees = \$900.00

The Arbitrator has assessed \$450.00 of the forum fees to John W. Mehlhouse and Margaret E. Mehlhouse.

The Arbitrator has assessed \$450.00 of the forum fees to U.S. Bancorp Piper Jaffray, Inc.

Fee Summary

Claimants, John W. Mehlhouse and Margaret E. Mehlhouse, shall be and hereby is liable for:

Initial Filing Fee = \$125.00

Forum Fees = \$450.00

Total Fees = \$575.00

Less payments = \$575.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondent, U.S. Bancorp Piper Jaffray, Inc., shall be and hereby is liable for:

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Member Fees	= \$400.00
<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$850.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$850.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:


/s/ Michael B. Laikin
Michael B. Laikin, Esq.
Public Arbitrator, Presiding Chair

October 24, 2000

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Member Fees	= \$400.00
<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$850.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$850.00

All balances are due to NASD Dispute Resolution, Inc.



Michael B. Laikin, Esq.
Public Arbitrator, Presiding Chair

Dated:

10-24-2000