

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

The Jack E. Shuler, D.D.S., P.A. Profit Sharing Plan, (Claimant) vs. American Express Financial Advisors, Inc. and Christopher E. Farris, (Respondents)

Case Number: 00-04126

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, The Jack E. Shuler, D.D.S., P.A. Profit Sharing Plan, hereinafter referred to as "Claimant": W. Wright Danenbarger, Esq., Wiggin & Nourie, P.A., Manchester, NH.

Respondents, American Express Financial Advisors, Inc. ("AEFA") and Christopher E. Farris ("Farris"), hereinafter collectively referred to as "Respondents": Christine S. Collins, Esq., Bowditch & Dewey, LLP, Worcester, MA.

CASE INFORMATION

Statement of Claim filed on or about: September 15, 2000.

Claimant signed the Uniform Submission Agreement: September 15, 2000.

Statement of Answer filed by Respondents on or about: December 5, 2000.

AEFA signed the Uniform Submission Agreement.

Farris signed the Uniform Submission Agreement: November 18, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; unauthorized trading activity; lack of supervision; lack of diversification in account; and unauthorized use of margin. Claimant's claim involved the stock of Ibis Technologies and other unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: all trades in Claimant's account were done with the express instruction and authorization of Claimant; neither Respondent provided Claimant with instructions on what equities to purchase, when to buy them, or when to sell them; all investment decisions were made solely and exclusively by Claimant; neither Respondent advised Claimant to purchase equities on his margin account; the existence of the margin account, the debt created by utilizing the margin account, and the effect it had on Claimant's portfolio was clearly set forth in each monthly statement; and Respondents, at all times, have acted properly, ethically, and in compliance with all rules and regulations.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$825,000.00, with treble damages, making the total amount requested \$2,475,000.00. Claimant also requested attorneys' fees and costs.

Respondents requested that the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

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:

1. AEFA be and hereby is solely liable for and shall pay to Claimant the sum of \$127,000.00 as compensatory damages, plus simple annual interest at the rate of 5% accruing from November 1, 2001 until paid.
2. Farris be and hereby is solely liable for and shall pay to Claimant the sum of \$317,500.00 as compensatory damages, plus simple interest at the rate of 5% accruing from November 1, 2001 until paid.
3. All other requests for relief are hereby denied.

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	= \$ 500.00
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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 events giving rise to the dispute. In this matter, American Express Financial Advisors, Inc. is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

Forum Fees and Assessments

The 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:

One (1) Pre-hearing session with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: August 6, 2001	1 session
Five (5) Hearing sessions x \$1,200.00	= \$6,000.00
Hearing Dates: October 29, 2001	2 sessions
October 30, 2001	2 sessions
October 31, 2001	1 session
Total Forum Fees	= \$7,200.00

1. The Panel has assessed \$2,160.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,440.00 of the forum fees against AEFA.
3. The Panel has assessed \$3,600.00 of the forum fees against Farris.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$2,160.00
Total Fees	= \$2,660.00
<u>Less payments</u>	= \$1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 960.00

2. AEFA be and hereby is solely liable for:

Member Fees	= \$7,600.00
<u>Forum Fees</u>	<u>= \$1,440.00</u>
Total Fees	= \$9,040.00
<u>Less payments</u>	<u>= \$7,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,440.00

3. Farris be and hereby is solely liable for:

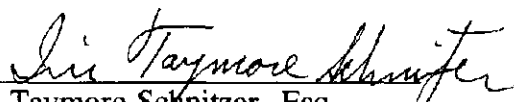
<u>Forum Fees</u>	<u>= \$3,600.00</u>
Total Fees	= \$3,600.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,600.00

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

ARBITRATION PANEL

Iris Taymore Schnitzer, Esq.	-	Industry Arbitrator, Presiding Chair
Kevin J. Mulrey	-	Public Arbitrator
Bennett Fisch	-	Public Arbitrator

Concurring Arbitrators' Signatures



Iris Taymore Schnitzer, Esq.
Industry Arbitrator, Presiding Chair

11/15/01

Signature Date

Kevin J. Mulrey
Public Arbitrator

Signature Date

Bennett Fisch
Public Arbitrator

Signature Date

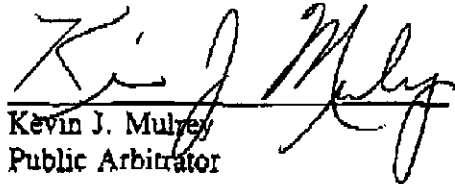
November 28, 2001
Date of Service (For NASD office use only)

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Kevin J. Mulrey	-	Public Arbitrator
Bennett Fisch	-	Public Arbitrator

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Industry Arbitrator, Presiding Chair



Kevin J. Mulrey
Public Arbitrator

Signature Date

11/21/01

Signature Date

Bennett Fisch
Public Arbitrator

Signature Date

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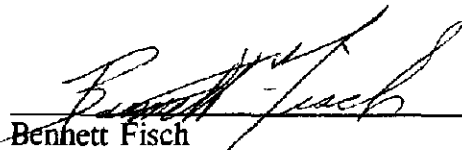
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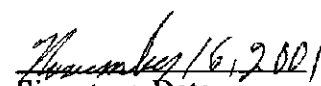
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