

Not on any list

8.1.02

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Henry Franczek and Danya Franczek,

Claimants,

vs.

FSC Securities Corporation and
and Joseph M. Finkler,

Respondents.

Case Number: 00-04304

Hearing Site: N/A

REPRESENTATION OF PARTIES

Claimants Henry Franczek and Danya Franczek, ("Claimants,") were represented by Edward J. Bardelli, Esq. of Warner Norcross & Judd LLP, 111 Lyon, N.W., Suite 900, Grand Rapids, Michigan 49503.

Respondents FSC Securities Corporation and Joseph M. Finkler ("Respondents") were represented by Dennis J. Levasseur, Esq. and William B. Forrest III, Esq. of Bodman, Longley & Dahling LLP, 100 Renaissance Center, Suite 3400, Detroit, Michigan 48243.

CASE INFORMATION

Statement of Claim filed on or about September 26, 2000. Claimants signed a Uniform Submission Agreement on or about September 26, 2000.

Answer and Affirmative Defenses filed by Respondents on or about November 28, 2000. Respondent FSC Securities Corporation signed a Uniform Submission Agreement on or about October 31, 2000. Respondent Joseph M. Finkler signed a Uniform Submission Agreement on or about October 13, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Michigan Uniform Securities Act, fraud, silent fraud, innocent misrepresentation, churning, unauthorized trading, breach of fiduciary duty, and negligence in connection with claimants' purchase of certain investments.

Unless specifically admitted in their answer and affirmative defenses to Claimants' statement of claim, Respondents denied the allegations made in the statement of claim. Respondents also asserted that the losses that Claimants complained about were due to trading activity that Claimants authorized and initiated based on full disclosure to them of the risks associated with that activity. Respondents also asserted that Claimants failed to state a claim upon which relief could be granted, that Respondents

did not owe Claimants a fiduciary duty, that Claimants' claims were not ripe for adjudication, and that Claimants' claims were barred by the applicable statute of limitations and the doctrines of assumption of the risk, comparative or contributory negligence, and ratification.

RELIEF REQUESTED

Claimants requested damages in the amount of their losses of approximately \$208,418.00, plus interest, costs, and attorney fees. Claimants also requested exemplary damages and punitive damages.

Respondents requested that Claimants' claims be dismissed in their entirety and that they recover their costs, including attorney fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that a single arbitrator may execute the Stipulated Award.

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, Inc. (the "NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims are dismissed with prejudice in their entirety against Respondents.
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondents FSC Securities Corporation's and Joseph M. Finkler's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3.) That any relief not specifically enumerated, including exemplary and/or punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain the non-refundable filing fees for each claim:

Initial claim filing fee	= \$300.00
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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, the member firm, FSC Securities Corp. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00

Fee Summary

Claimants, Henry & Danya Franczek, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	<u>= \$ 300.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, FSC Securities Corp, be and hereby is solely liable for:

Administrative Costs	= \$ 50.00
<u>Member Fees</u>	<u>= \$ 2,100.00</u>
Total Fees	= \$ 2,150.00
<u>Less payments</u>	<u>= \$ 2,150.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Michael J. Meeusen - Public Arbitrator
Harvey J. Frank - Public Arbitrator
Eugene Leich - Non-Public Arbitrator, Presiding Chair

Concurring Arbitrators'

/s/ Michael J. Meeusen
Michael J. Meeusen
Public Arbitrator

05/17/02
Signature Date

/s/ Harvey Frank
Harvey Frank
Public Arbitrator

05/13/02
Signature Date

/s/ Eugene Leich
Eugene Leich
Non-Public Arbitrator, Presiding Chair

05/13/02
Signature Date

05/20/02
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
 Arbitration # 99 04804
 Award Page 3 of 9

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Concurring Arbitrators

Michael J. Meeusen
 Public Arbitrator

Signature Date

Harvey Frank

5/13/02

Harvey Frank
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Eugene Leich
 Non-Public Arbitrator Presiding Chair

Signature Date

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Harvey J. Frank - Public Arbitrator
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Concurring Arbitrators'

Michael J. Meeusen
Public Arbitrator

Signature Date

Harvey Frank
Public Arbitrator

Signature Date



Eugene Leich
Non-Public Arbitrator, Presiding Chair

5/13/02

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NASD Dispute Resolution, Inc.
Arbitration # 99-04304
Award Page 3 of 3

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Concurring Arbitrators'



Michael J. Meeusen
Public Arbitrator

5-17-02

Signature Date

Harvey Frank
Public Arbitrator

Signature Date

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Non-Public Arbitrator, Presiding Chair

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