

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John R. Rohner and Joan R. Rohner Trust A, John R. Rohner and Joan R. Rohner Trust B, John R. Rohner IRA, and Barbara M. Rohner, Claimants v. Miller & Schroeder Financial, Inc. and Mark Augusta, Respondents

Case Number: 00-04825

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimants:

Arthur S. Leider
Investors Arbitration
Specialists, Inc.
San Diego, California

For Respondents:

Lindsay G. Arthur, Jr., Esq.
Arthur, Chapman, Kettering,
Smetak & Pikala, P.A.
Minneapolis, Minnesota

CASE INFORMATION

Statement of Claim filed: October 23, 2000

Claimant John R. Rohner and Joan R. Rohner Trust A, John R. Rohner and Joan R. Rohner Trust B's Uniform Submission Agreement signed: November 13, 2000

Claimant John R. Rohner IRA and Barbara M. Rohner's Uniform Submission Agreement signed: November 13, 2000

Statement of Answer filed by Respondents Miller & Schroeder Financial, Inc. and Mark Augusta: January 9, 2001

Respondent Miller & Schroeder Financial, Inc.'s Uniform Submission Agreement signed: December 21, 2000

Respondent Mark Augusta's Uniform Submission Agreement signed: December 21, 2000

CASE SUMMARY

Claimants alleged breach of fiduciary duty, negligence, and fraudulent misrepresentation.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$300,000.00 in compensatory damages, \$200,000.00 in punitive damages, interest, and sought reimbursement for legal fees and arbitration costs.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and sought reimbursement for attorneys' fees and arbitration costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Miller & Schroeder Financial, Inc. and Mark Augusta are jointly and severally liable to and shall pay Claimants \$168,400.00 in compensatory damages.
- 2) Claimants' request for punitive damages is denied.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Miller & Schroeder Financial, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

3 Pre-hearing conference sessions with the Panel @ \$ 1,125.00/session	= \$ 3,375.00
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Pre-hearing conferences:	June 11, 2001	1 session
	July 24, 2001	1 session
	August 24, 2001	1 session

5 Hearing sessions @ \$ 1,125.00/session	= \$ 5,625.00
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Hearings:	September 24, 2001	2 sessions
	September 25, 2001	2 sessions
	September 26, 2001	1 session

Total Forum Fees	= \$ 9,000.00
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The Panel assessed \$ 9,000.00 of the forum fees jointly and severally to Respondents Miller & Schroeder Financial, Inc. and Mark Augusta.

Fee Summary

1. Claimants John R. Rohner and Joan R. Rohner Trust A, John R. Rohner and Joan R. Rohner Trust B, John R. Rohner IRA, and Barbara M. Rohner are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimants	= \$(1,125.00)

2. Respondent Miller & Schroeder Financial, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$ (4,125.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 475.00

3. Respondents Miller & Schroeder Financial, Inc. and Mark Augusta are charged jointly and severally with the following fees and costs:

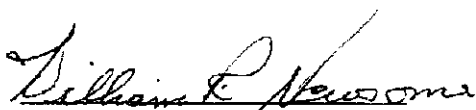
<u>Forum Fees</u>	<u>= \$ 9,000.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 9,000.00

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

ARBITRATION PANEL

William R. Newsome, Esq.	-	Public Arbitrator, Presiding Chair
William D. Randolph	-	Public Arbitrator
James R. Collins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


William R. Newsome, Esq.
Chair, Public Arbitrator

10/1/01
Signature Date

William D. Randolph
Public Arbitrator

Signature Date

James R. Collins
Non-Public Arbitrator

Signature Date

10/5/01
Date of Service

ARBITRATION PANEL

William R. Newsome, Esq.	-	Public Arbitrator, Presiding Chair
William D. Randolph	-	Public Arbitrator
James R. Collins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William R. Newsome, Esq.
Chair, Public Arbitrator

Signature Date



William D. Randolph
Public Arbitrator

9/28/01

Signature Date

James R. Collins
Non-Public Arbitrator

Signature Date

10/5/01

Date of Service