

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert Zomack, Mary Zomack, the Robert Zomack IRA, and the Mary Zomack IRA, (Claimants)
vs. Shulka Financial Services, Inc., First Security Investments, Inc., and Patrick McDevitt,
(Respondents)

Case Number: 00-05773

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Robert Zomack ("R. Zomack"), Mary Zomack ("M. Zomack"), the Robert Zomack IRA ("R. Zomack IRA"), and the Mary Zomack IRA ("M. Zomack IRA"), hereinafter collectively referred to as "Claimants": Robert S. Moraff, Esq., Law Offices of Robert S. Moraff, P.C., Wayne, NJ. Mr. Moraff was with the law firm of Ambrosio, Kyreakakis, Dilorenzo, Moraff & McKenna, Bloomfield, NJ, when this claim was originally filed.

Respondent, Shulka Financial Services, Inc. ("Shulka"): Bipinchandra R. Shulka, President, Shulka Financial Services, Inc., West Paterson, NJ.

Respondent, First Security Investments, Inc. ("FSI"): Margaret Manolakis, Esq., Stradley, Ronon, Stevens & Young, LLP, Philadelphia, PA.

Respondent, Patrick McDevitt ("McDevitt"): John V. McCambley, Esq., a sole practitioner, Wyckoff, NJ.

CASE INFORMATION

Statement of Claim filed on or about: December 29, 2000.

R. Zomack signed the Uniform Submission Agreement: December 28, 2000.

M. Zomack signed the Uniform Submission Agreement: December 28, 2000.

R. Zomack IRA signed the Uniform Submission Agreement: June 18, 2001.

M. Zomack IRA signed the Uniform Submission Agreement: June 18, 2001.

Statement of Answer and Counterclaim filed by Shulka on or about: August 16, 2001.

Shulka signed the Uniform Submission Agreement: August 16, 2001.

Statement of Answer filed by FSI on or about: August 31, 2001.

FSI signed the Uniform Submission Agreement.

Statement of Answer filed by McDevitt on or about: August 15, 2001.
McDevitt signed the Uniform Submission Agreement: August 15, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trades; unsuitability; failure to supervise; violations of the Rules of Fair Practice; fraud; negligence; and violation of fiduciary duty. Claimants' claim involved unspecified stocks and options.

Unless specifically admitted in its Answer, Shulka denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants never complained about any confirmation or monthly statement regarding unauthorized trades although they had daily conversations with their broker and occasional conversations with the President of Shulka; Shulka never made any recommendation on any stock or option to Claimant at any time; Shulka never guaranteed a profit to anyone; Claimants' pattern of purchasing, selling, and holding of different stocks in their accounts was similar to the positions that were transferred to Shulka from the previous broker/dealer; any losses or gains in Claimants' accounts were due to factors beyond the control of Shulka, and the firm is not responsible; and Claimants knew and understood the risks involved in the trading of their accounts.

In its Counterclaim, Shulka asserted the following cause of action: failure to pay debit balance in account.

Unless specifically admitted in its Answer, FSI denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants have not sustained any compensable loss; Claimants are estopped from making the claims set forth in the Statement of Claim for the reason that the acts of FSI about which Claimants complain were done at the direction of, and with the full authority and permission of, Claimants; Claimants are estopped from making the claims set forth in the Statement of Claim by the equitable doctrine of laches; Claimants, by their acts and omissions, have ratified any actions of FSI which are allegedly unauthorized or improper; Claimants have failed to take appropriate steps to mitigate their damages; to the extent that Claimants have incurred any damages, such damages are attributable in whole or in part to Claimants' failure to object in a timely fashion to transactions they now claim were unsuitable or unauthorized; and to the extent that Claimants have incurred any damages, such damages are attributable to market conditions, and not to any acts or omissions of FSI.

Unless specifically admitted in his Answer, McDevitt denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants received confirmations of transactions and monthly statements, and failed to object to any transactions; Claimants authorized each transaction in their accounts and may not recover; Claimants ratified each transaction in their accounts and may not recover; Claimants' losses, if any, are the result of

market forces over which McDevitt had no control; Claimants were not guaranteed a profit on their transactions by McDevitt and may not recover; Claimants were not insured against losses on their transactions by McDevitt and may not recover; Claimants' Statement of Claim is barred by the applicable statute of limitations; Claimants have waived their claims and may not recover; Claimants have been guilty of laches and may not recover; and Claimants are estopped and may not recover.

RELIEF REQUESTED

Claimants requested:

- a. Compensatory damages in the amount of at least \$100,000.00;
- b. Punitive damages;
- c. Interest;
- d. Costs of this proceeding; and
- e. Attorneys' fees.

In its Answer and Counterclaim, Shulka requested:

- a. That Claimants' Statement of Claim be denied;
- b. Compensatory damages in the amount of \$5,000.00;
- c. Punitive damages;
- d. Interest;
- e. Costs of this proceeding; and
- f. Attorneys' fees.

FSI requested that Claimants' claims be denied in all respects, and that FSI be compensated for the costs, including attorneys' fees, incurred in defending against Claimants' action.

McDevitt requested that the Statement of Claim be dismissed as to him.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated February 11, 2003, Claimants advised NASD Dispute Resolution that they had entered into a settlement agreement with FSI.

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. Shulka is solely liable for and shall pay to Claimants the sum of \$8,250.00 as compensatory damages.
2. McDevitt is solely liable for and shall pay to Claimants the sum of \$13,250.00 as compensatory damages.
3. With respect to Shulka's Counterclaim, the Panel found that Claimants are liable to Shulka in the amount of \$5,000.00, and reduced the amount of Claimant's compensatory damage award against Shulka accordingly.
4. Each party shall bear its own costs.
5. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
Counterclaim filing fee	= \$ 400.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, Shulka Financial Services, Inc. and First Security Investments, Inc. are parties.

Shulka Financial Services, Inc.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

First Security Investments, Inc.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

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:

Three (3) Pre-hearing sessions with Panel x \$1,125.00	= \$3,375.00
Pre-hearing conferences:	
January 30, 2002	1 session
August 15, 2002	1 session
November 13, 2002	1 session
Two (2) Hearing sessions x \$1,125.00	= \$2,250.00
Hearing Date:	February 10, 2003
	2 sessions
Total Forum Fees	= \$5,625.00

1. The Panel has assessed \$1,875.00 of the forum fees Jointly and severally against Claimants.
2. The Panel has assessed \$1,875.00 of the forum fees against Shulka.
3. The Panel has assessed \$1,875.00 of the forum fees against McDevitt.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,875.00
Total Fees	= \$2,175.00
Less payments	= \$1,500.00
Balance Due NASD Dispute Resolution	= \$ 675.00

2. Shulka is solely liable for:

Counterclaim Filing Fee	= \$ 400.00
Member Fees	= \$4,600.00
<u>Forum Fees</u>	<u>= \$1,875.00</u>
Total Fees	= \$6,875.00
<u>Less payments</u>	<u>= \$ 817.00</u>
Balance Due NASD Dispute Resolution	= \$6,058.00

3. FSI is solely liable for:

<u>Member Fees</u>	<u>= \$4,600.00</u>
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$5,534.00</u>
Refund Due FSI	= \$ 934.00

4. McDevitt is solely liable for:

<u>Forum Fees</u>	<u>= \$1,875.00</u>
Total Fees	= \$1,875.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,875.00


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

ARBITRATION PANEL

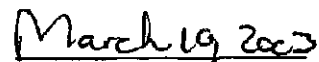
Daniel E. Miller, Esq.	-	Public Arbitrator, Presiding Chair
Charles Fredericks, Jr., Esq.	-	Public Arbitrator
Andrew J. Schoen, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Daniel E. Miller, Esq.
Public Arbitrator, Presiding Chair



Signature Date

Charles Fredericks, Jr., Esq.
Public Arbitrator

Signature Date

Andrew J. Schoen, Esq.
Non-Public Arbitrator

Signature Date

March 19, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

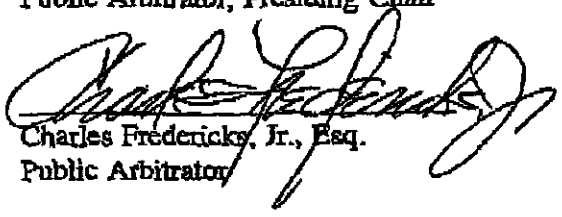
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Daniel E. Miller, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Charles Fredericks, Jr., Esq.
Public Arbitrator

3-3-03
Signature Date

Andrew J. Schoen, Esq.
Non-Public Arbitrator

Signature Date

March 19, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Daniel E. Miller, Esq.	-	Public Arbitrator, Presiding Chair
Charles Fredericks, Jr., Esq.	-	Public Arbitrator
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Concurring Arbitrators' Signatures

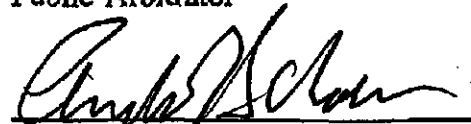
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Daniel E. Miller, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Charles Fredericks, Jr., Esq.
Public Arbitrator

Signature Date



Andrew J. Schoen, Esq.
Non-Public Arbitrator

February 10, 2003
Signature Date

March 19, 2003

Date of Service (For NASD Dispute Resolution use only)