

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Josephine Oliveri and The Estate of Frank Oliveri (Claimants) v. First Colonial Securities Group, Inc., Anthony Guglieri, Chee Eng, and Michael Golden (Respondents)

Case Number: 01-00320

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants Josephine Oliveri ("J. Oliveri") and The Estate of Frank Oliveri ("F. Oliveri") hereinafter collectively referred to as "Claimants": John P. Cione, Esq., Solana Beach, CA.

Respondent First Colonial Securities Group, Inc. ("FCSG"): Adam H. Smith, Esq., Adam H. Smith, P.A., Boca Raton, FL.

Respondent Anthony Guglieri ("Guglieri"): Sanford H. Greenberg, Esq., New York, NY.

Respondent Chee Eng ("Eng"): Louis H. Miron, Esq., Westfield, NJ.

Respondent Michael Golden ("Golden"): Neil S. Baritz, Esq., Dreier Baritz & Colman, Boca Raton, FL.

CASE INFORMATION

Statement of Claim filed on or about: January 19, 2001.

Motion in Opposition to the Motion of Respondent Golden to Dismiss the Claim by Claimants filed on or about: May 25, 2001.

Claimants signed the Uniform Submission Agreement: January 18, 2001.

Statement of Answer filed by Respondent FCSG on or about: December 20, 2001.

Respondent FCSG did not sign the Uniform Submission Agreement.

Statement of Answer and Counterclaim filed by Respondent Guglieri on or about: April 16, 2001.

Respondent Guglieri signed the Uniform Submission Agreement: March 28, 2001.

Statement of Answer filed by Respondent Eng on or about: August 20, 2001.

Respondent Eng signed the Uniform Submission Agreement: August 17, 2001.

Motion to Dismiss, Answer and Affirmative Defenses filed by Respondent Golden on or about: May 1, 2001.

Reply to Motion in Opposition to the Motion to Dismiss of Michael Golden filed by Respondent Golden on or about: May 22, 2001.

Reply to Answer and Affirmative Defenses of FCSG filed by Respondent Golden on or about: January 18, 2002.

Respondent Golden signed the Uniform Submission Agreement: May 22, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitable investments; unauthorized trading; excessive trading; lack of supervision; breach of fiduciary duty; false completion of information on new account forms; misrepresentation; and forgery. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer, Respondent FCSG denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Respondent Guglieri denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In his Counterclaim, Respondent Guglieri asserted the following causes of action: indemnification and contribution.

Unless specifically admitted in his Answer, Respondent Eng denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Golden denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$192,286.50; interest; punitive damages in the amount of \$100,000.00; costs; and attorneys' fees.

Respondent FCSG requested dismissal of the Statement of Claim; that Claimants take nothing by way of the claim; costs and expenses; and such other relief as the Arbitrators deem just and proper.

Respondent Guglieri requested dismissal of the claim with prejudice; indemnification or contribution; attorneys' fees, costs and disbursements; and such other and further relief as the Panel deems just.

Respondent Eng requested that Claimants' claim be dismissed; attorneys' fees; costs and disbursements; and such other relief as the Panel deems just and equitable.

Respondent Golden requested that the Panel dismiss the Statement of Claim; attorneys' fees and

costs; and such other and further relief as the Arbitrators deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent FCSG did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about May 10, 2004, NASD Dispute Resolution ("NASD DR") was notified that Claimants settled their claims with Respondent Guglieri.

On or about May 21, 2004, NASD DR was notified that Claimants settled their claims with Respondent FCSG.

On or about May 14, 2004, the Panel granted Claimants' Motion to Amend the Claim to reflect the Estate of Frank Oliveri as a Claimant.

At the hearing, Respondents Eng and Golden made a motion to dismiss. The Panel considered the arguments and documentation presented by both parties in connection with the motion and determined to grant the motion based on the language in the General Release and Confidentiality Agreement between Claimants and vFinance Investments, Inc. as successor to Respondent First Colonial Securities Group, Inc., a copy of which was provided to the Panel, that provides "Josephine Oliveri, individually, and on behalf of the Estate of Frank Oliveri... releases... Respondent... its present and former... employees, officers..."

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, and 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. The claims of Claimants are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is 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
Guglieri's Counterclaim filing fee	= \$300.00

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 persons at the time of the events giving rise to the dispute. Accordingly, First Colonial Securities Group, Inc. is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 16-19, 2002, adjournment by Claimants	= Waived
May 13-15, 2003, joint adjournment request	= \$1,125.00
Claimants' share	= \$562.50
Respondents' share	= \$562.50

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: November 29, 2001	1 session
One (1) Hearing session @ \$1,125.00	= \$1,125.00
Hearing Date: February 2, 2005	1 session
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$562.50 of the forum fees against Respondent Eng.
3. The Panel has assessed \$562.50 of the forum fees against Respondent Golden.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,987.50
<u>Less payments</u>	<u>= \$1,475.00</u>
Balance Due NASD Dispute Resolution	= \$ 512.50
2. Respondent FCSG is solely liable for:

<u>Member Fees</u>	<u>= \$4,600.00</u>
Total Fees	= \$4,600.00

<u>Less payments</u>	= \$4,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Guglieri is solely liable for:

<u>Counterclaim Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 25.00
Balance Due NASD Dispute Resolution	= \$ 275.00

4. Respondent Eng is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 185.63
Balance Due NASD Dispute Resolution	= \$ 376.87

5. Respondent Golden is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

6. Respondents are jointly and severally liable for:

<u>Adjournment Fee</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

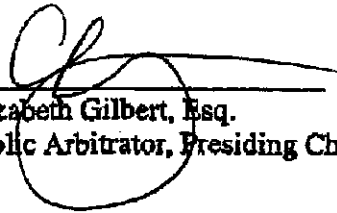
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Elizabeth Gilbert, Esq.	-	Public Arbitrator, Presiding Chairperson
Fred Sorkin	-	Public Arbitrator
Peter Byer, 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.



Elizabeth Gilbert, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Fred Sorkin
Public Arbitrator

Signature Date

Peter Byer, Esq.
Non-Public Arbitrator

Signature Date

February 10, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Elizabeth Gilbert, Esq.	-	Public Arbitrator, Presiding Chairperson
Fred Sorkin	-	Public Arbitrator
Peter Byer, Esq.	-	Non-Public Arbitrator

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Elizabeth Gilbert, Esq.
Public Arbitrator, Presiding Chairperson



Fred Sorkin
Public Arbitrator

Signature Date

Feb. 4 - 05

Signature Date

Peter Byer, Esq.
Non-Public Arbitrator

Signature Date

February 10, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Elizabeth Gilbert, Esq.	-	Public Arbitrator, Presiding Chairperson
Fred Sorkin	-	Public Arbitrator
Peter Byer, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

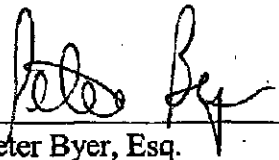
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Elizabeth Gilbert, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Fred Sorkin
Public Arbitrator

Signature Date



Peter Byer, Esq.
Non-Public Arbitrator

4/11/05

Signature Date

February 10, 2005
Date of Service (For NASD Dispute Resolution use only)