

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION, INC.**

CASE:01-00386

Harold Rostow, claimant vs. Bishop, Rosen & Co., respondent.

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**ATTORNEYS:**

Claimant appeared Pro Se, Henderson, NV.

Respondent appeared through it Vice-President, Thomas Murphy, New York, NY.

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**DATE FILED:** January 22, 2001

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**CASE SUMMARY:** Claimant alleged that respondents never notified him of the fees associated with transferring his customer account to another brokerage firm, thereby causing a loss to his account.

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**ARBITRATOR'S REPORT:** The claim is dismissed on both procedural grounds and on the merits.

- a. The procedural ground is the failure of Claimant to make a timely response to the Arbitrator's order Requesting claimant to produce Further Evidence. The order required a response from Claimant to be filed with the NASD Dispute Resolution, Inc. office on or before August 20, 2001, but Claimant's response was date stamped as received there September 4, 2001. CAP 10305(b)
- b. On the Merits, the Respondent's Answering Statement, and its Answers to the Order Requesting Further Evidence both allege that Claimant was informed by letter, at the time he opened his account with Respondent, that fees would be charged for certain services. the first thing listed as a service for which a fee would be charged was the transfer of the account to another brokerage firm. The Claimant denies receiving such letter. For purposes of the decision on the merits, I consider Claimant's untimely response to the Order to produce further Evidence as having been timely filed. The evidence as to whether Claimant did, or did not, receive the letter which contained information about a transfer of account service charge is evenly divided. Since claimant has the burden of proof on all issues of fact, Claimant has not met his burden to prove, by a preponderance of the evidence, that he was not notified that a service charge would or could be made if he requested that his account be transferred. A service charge of \$50.00 for transferring Claimant's account was reasonable and Respondent was entitled to collect it.

**Claim Data**

Claim: \$50.00  
Other: \$.00

**Award Data**

Award: \$.00  
Other: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of claimant are dismissed in their entirety. 2) All other relief requests are denied. 3) The \$50.00 filing fee previously deposited with NASD Dispute Resolution, Inc. by the claimant, shall be retained by NASD Dispute Resolution, Inc.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, respondent Bishop, Rosen & Co., has paid to NASD Dispute Resolution, Inc. the \$150.00 Member Surcharge previously invoiced.

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Eugene R. Nielson

Sole Public Arbitrator

**AFFIRMATION**

I, Eugene R. Nielson, do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

Eugene R. Nielson  
Eugene R. Nielson

11-10-01  
Signature Date

November 16, 2001  
Date of Service (For NASD-DR office use only)