

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Johanna Wilson, (Claimant) vs. Tucker Anthony Incorporated, Thomas James Nash, and James M. Hazelton, (Respondents)

Case Number: 01-02376

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Johanna Wilson ("Wilson"), hereinafter referred to as "Claimant", appeared *pro se*. Previously represented by: Susan F. Drogin, Esq., a sole practitioner, Boston, MA.

Respondents, Tucker Anthony Incorporated ("Tucker"), Thomas James Nash ("Nash"), and James M. Hazelton ("Hazelton"), hereinafter collectively referred to as "Respondents": David J. Campbell, Esq., Bressler, Amery & Ross, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 7, 2001.

Claimant signed the Uniform Submission Agreement: May 18, 2001.

Joint Statement of Answer filed by Respondents on or about: August 2, 2001.

Tucker signed the Uniform Submission Agreement: October 30, 2001.

Nash signed the Uniform Submission Agreement: November 5, 2001.

Hazelton signed the Uniform Submission Agreement: October 30, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading; unsuitability; failure to supervise; violations of NASD and NYSE rules; fraudulent activity; misrepresentation; respondeat superior; and violations of the Securities Exchange Act of 1934. Claimant's claim involved unspecified financial products.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; the Statement of Claim is barred by the doctrines of laches, waiver, ratification, and estoppel; Respondents acted in good faith and without malice or reckless indifference to Claimant; upon information and belief, Claimant has failed to mitigate any alleged damages and therefore her claim for damages is barred or reduced pro

tanto; Claimant is not entitled to attorneys' fees or punitive damages; Respondents did not breach any duty to Claimant imposed by operation of law or contract; and upon information and belief, Claimant's injuries or damages are due to the acts or omissions of third parties over which Respondents had no control or right to control.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00, plus statutory interest of 12%, reasonable attorneys' fees, payment of all forum fees and expenses, and punitive damages in the amount of \$100,000.00.

In their Answer, Respondents requested that the Statement of Claim be dismissed with prejudice, in its entirety, and that the Panel award Respondents their costs and further relief as they deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Tucker filed a third party Claim against Robert Weaver. Mr. Weaver was not required to submit and did not voluntarily submit to the jurisdiction of NASD Dispute Resolution in this matter.

On November 11, 2002, Respondents filed a Motion to Dismiss and a request for expungement of this matter from Hazelton's registration records. On November 26, 2002, Respondents filed a request for expungement of this matter from Nash's registration records. Claimant did not file a response to the Motion or the expungement requests. After due consideration, the Panel has decided to grant the Motion to Dismiss and order expungement of this matter from the registration records of Hazelton and Nash.

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, including Respondents' Motion to Dismiss, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Nash's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Nash must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Hazelton's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Hazelton must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. 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
--------------------------	-------------

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. In this matter, Tucker Anthony Incorporated is a party.

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

Adjournment Fees

Adjournments requested during these proceedings:

May 28, 29 & 30, 2002, adjournment by Respondents = WAIVED

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:

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences: December 14, 2001	1 session
September 27, 2002	1 session
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$1,687.50 of the forum fees against Claimant.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,687.50
Total Fees	= \$1,987.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Tucker is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
Less payments	= \$4,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
Less payments (made by Tucker)	= \$2,125.00
Refund Due Tucker	= \$1,562.50

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

2. Tucker is solely liable for:

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

3. Respondents are jointly and severally liable for:

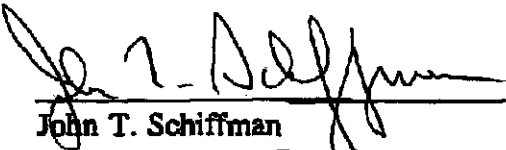
Third-Party Claim Filing Fee	= \$1,000.00
<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$1,562.50
<u>Less payments (made by Tucker)</u>	= \$2,125.00
Refund Due Tucker	= \$ 562.50

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

ARBITRATION PANEL

John T. Schiffman	-	Public Arbitrator, Presiding Chair
Philip M. Giordano, Esq.	-	Public Arbitrator
Michael Unger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



John T. Schiffman
Public Arbitrator, Presiding Chair

February 21, 2003

Signature Date

Philip M. Giordano, Esq.
Public Arbitrator

Signature Date

Michael Unger, Esq.
Non-Public Arbitrator

Signature Date

February 26, 2003

Date of Service (For NASD Dispute Resolution use only)

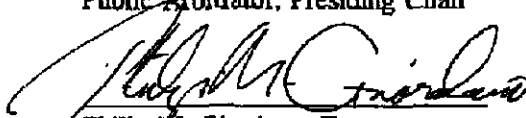
ARBITRATION PANEL

John T. Schiffman	-	Public Arbitrator, Presiding Chair
Philip M. Giordano, Esq.	-	Public Arbitrator
Michael Unger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John T. Schiffman
Public Arbitrator, Presiding Chair

Signature Date



Philip M. Giordano, Esq.
Public Arbitrator



Signature Date

Michael Unger, Esq.
Non-Public Arbitrator

Signature Date

February 26, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

John T. Schiffman	-	Public Arbitrator, Presiding Chair
Philip M. Giordano, Esq.	-	Public Arbitrator
Michael Unger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John T. Schiffman
Public Arbitrator, Presiding Chair

Signature Date

Philip M. Giordano, Esq.
Public Arbitrator

Signature Date



Michael Unger, Esq.
Non-Public Arbitrator

2/20/03
Signature Date

February 26, 2003
Date of Service (For NASD Dispute Resolution use only)