

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Aaron J. Stern

and

01-03192  
Southfield, Michigan

American Express Financial Advisors, Inc.  
IDS Life Insurance Company of New York,  
IDS Financial Advisors, Inc., and  
American Express, and Dominic J. Sacca

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**REPRESENTATION OF PARTIES**

Aaron J. Stern ("Claimant") was represented by Anthony V. Trogan, Esq., West Bloomfield, Michigan.

American Express Financial Advisors, Inc. ("AEFA"), IDS Life Insurance Company of New York ("IDS Life"), IDS Financial Advisors, Inc., ("IDSFA") and Dominic J. Sacca ("Sacca"), hereinafter referred to as "Respondents", were represented by Thomas R. Paxton, Esq., Garan Lucow Miller, P.C., Detroit, Michigan.

Respondent American Express did not appear.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 6, 2001. The Submission Agreement of Claimant Aaron J. Stern was signed on or about June 6, 2001.

Statement of Answer was filed by Respondent AEFA, IDSFA, IDS Life, and Sacca on or about August 17, 2001. The Submission Agreement of Respondent Sacca was signed on or about July 17, 2001.

No Statement of Answer was filed by Respondent American Express.

**CASE SUMMARY**

Claimant asserted the legal theories including the following: breach of contract, common law fraud, conspiracy, promissory estoppel, conversion, negligence, malpractice, breach of fiduciary duty, breach of Michigan Securities Law, violation of Michigan Consumer's Protection Law. The causes of action relate to investments in his managed account.

Unless specifically admitted in their Answer, Respondents AEFA, IDSFA, IDS Life, and Sacca denied the allegations made in the Statement of Claim and asserted unspecified defenses.

### **RELIEF REQUESTED**

Claimant requested an award of out-of-pocket losses in the amount of approximately \$250,000.00, plus interest, costs, attorney fees, punitive and exemplary damages, additional damages as allowed by the Panel, and rescission.

Respondents AEFA, IDSFA, IDS Life, and Sacca requested that Panel issue and award in their favor and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent American Express is not an NASD member firm and did not voluntarily submit to arbitration. The Panel did not adjudicate any claims against American Express.

Respondents American Express Financial Advisors, Inc. and IDS Life Insurance Company of New York, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared and testified at the hearing are bound by the arbitration panel's determination on all issues submitted.

Respondent IDS Financial Advisors, Inc., did not file with NASD Dispute Resolution a properly executed submission to arbitration but having voluntarily submitted to arbitration, answered the claim, and appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Dominic J. Sacca, is liable for and shall pay to Claimant, Aaron J. Stern, the sum of \$25,000.00 in compensatory damages;
- 2.) Respondent, American Express Financial Advisors, Inc., is liable for and shall pay to Claimant, Aaron J. Stern, the sum of \$75,000.00 in compensatory damages;
- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain 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 firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms are American Express Financial Advisors, Inc. and IDS Life Insurance Company.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: November 20, 2001 1 session

Five (5) Hearing sessions x \$1,125.00 = \$5,625.00

Hearing Dates: May 20, 2001 3 sessions

May 21, 2002 2 sessions

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Total Forum Fees = \$6,750.00

The Arbitration Panel has assessed \$3,375.00 of the forum fees to Aaron J. Stern.

The Arbitration Panel has assessed \$3,375.00 of the forum fees to American Express Financial Advisors, Inc.

### **Fee Summary**

Claimant, Aaron J. Stern, is liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 3,375.00

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Total Fees = \$ 3,675.00

Less payments = \$ 1,425.00

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Balance Due NASD Dispute Resolution = \$ 2,250.00

Respondent, American Express Financial Advisors, Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 7,975.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

Respondent, IDS Life Insurance Co. is liable for:

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

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

John P. Goutierre, Esq. - Public Arbitrator, Presiding Chair

Irving Lopatin - Public Arbitrator

William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

/s/ John P. Goutierre, Esq.  
John P. Goutierre, Esq.  
Public Arbitrator, Presiding Chair

06/18/02  
Signature Date

/s/ Irving Lopatin  
Irving Lopatin  
Public Arbitrator

06/17/02  
Signature Date

/s/ William C. Kubicz  
William C. Kubicz  
Non-Public Arbitrator

06/17/02  
Signature Date

06/19/02  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 01-03192  
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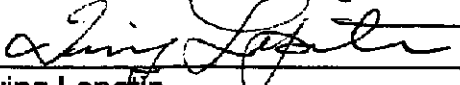
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