

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

John W. Anderson and Barbara E. Anderson

v.

01-05506
Denver, Colorado

Respondents

Bock Evans Financial Counsel,
Mutual Securities, Inc.,
Mary C. Evans and Thomas H. Bock

Nature of Dispute: Customers v. Non-Member, Member and Associated Persons

REPRESENTATION OF PARTIES

John W. Anderson and Barbara E. Anderson ("**Claimant**") were represented by William D. Nelson, Esq., of Rothgerber Johnson & Lyons, LLP, Denver, Colorado.

Bock Evans Financial Counsel ("**Bock Evans**"), Thomas H. Bock ("**Bock**") and Mary C. Evans ("**Evans**") were represented by David Von Gunten, Esq., of Von Gunten Law, LLC, Englewood, Colorado.

Respondent Mutual Securities, Inc. ("**Mutual Securities, Inc.**") was represented by Carl J. Carlson, Esq., of Carlson & Fabish, P.A., Seattle, Washington.

CASE INFORMATION

The Statement of Claim was filed on or about October 9, 2001. Submission Agreements of Claimants were signed on or about November 2, 2001.

A Joint Statement of Answer was filed by Respondents Bock Evans Financial Counsel, Thomas H. Bock and Mary C. Evans on or about December 21, 2001. Submission Agreement of Respondent Bock Evans Financial Counsel was signed on or about January 17, 2002. Submission Agreement of Respondent Thomas H. Bock was signed on or about January 17, 2002. Submission Agreement of Respondent Mary C. Evans was signed on or about January 17, 2002.

A Statement of Answer was filed by Respondent Mutual Securities, Inc. on or about December 21, 2001. Submission Agreement of Respondent Mutual Securities, Inc. was signed on or about December 20, 2001.

CASE SUMMARY

Claimants asserted causes of action including the following: breach of fiduciary duty, violations of the Colorado Securities Act, and unauthorized trading. The causes of action related to Claimants' allegation that after transferring their portfolio to Bock Evans, Respondents subsequently liquidated 49 out of 55 stocks previously owned and instituted a new investment strategy consisting of aggressive stocks. Claimants alleged this was contrary to their specific instructions and as a result they were forced to suffer not only losses in their portfolio, but severe potential tax consequences.

Respondents Bock Evans Financial Counsel, Mary C. Evans and Thomas H. Bock denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants' claims may be limited or barred by contract; Claimants, by their actions, consented to and ratified all of the investments made; Claimants were provided all information necessary to make informed choices, and if Claimants failed to become knowledgeable regarding their investments, then Claimants were negligent, and their negligence should reduce or bar the claims asserted; and Claimants' claims are barred by the equitable doctrines of waiver, consent, and estoppel.

Respondent Mutual Securities, Inc. denied the allegations set forth in the Statement of Claim and asserted that it acted at all times in good faith and did not, directly or indirectly, induce the acts constituting the alleged violation or cause of action.

RELIEF REQUESTED

Claimants requested an award in the amount of \$350,000 in compensatory damages. In addition Claimants requested interest, costs, attorney's fees and any other relief that the Panel deemed just and equitable.

Respondents Bock Evans Financial Counsel, Mary C. Evans and Thomas H. Bock requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

Respondent Mutual Securities, Inc. requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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 originals 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. Respondents, Bock Evans Financial Counsel, Thomas H. Bock and Mary C. Evans, are jointly and severally liable for and shall pay to Claimants, John W. Anderson and Barbara E. Anderson, the sum of One Hundred One Thousand Seven Hundred Dollars and No Cents (\$101,700.00) as compensatory damages;
2. Respondents, Bock Evans Financial Counsel, Thomas H. Bock and Mary C. Evans, are liable for and shall pay to Claimants, John W. Anderson and Barbara E. Anderson, interest at the rate of 8% per annum on the above-stated sum from and including the NASD date of service of this Award through and including the date this Award is paid in full;
3. Respondent, Mutual Securities, Inc, is solely liable for and shall pay to Claimants, John W. Anderson and Barbara E. Anderson, the sum of Eleven Thousand Three Hundred Dollars and No Cents (\$11,300.00) as compensatory damages;
4. Respondent, Mutual Securities, Inc., is solely liable for and shall pay to Claimants, John W. Anderson and Barbara E. Anderson, interest at the rate of 8% per annum on the above-stated sum from and including the NASD date of service of this Award through and including the date this Award is paid in full;
5. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice and;
6. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee 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, the member firm is Mutual Securities, Inc.

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Pre-hearing session with Panel x \$ 1,125.00 = \$ 4,500.00

Pre-hearing conferences:	05/01/2002	1 session
	01/06/2003	1 session
	04/03/2003	1 session
	10/31/2003	1 session

Eleven (11) Hearing sessions with Panel x \$ 1,125.00 = \$ 12,375.00

Hearing Dates:	09/03/2003	2 sessions
	09/04/2003	2 sessions
	09/05/2003	2 sessions
	02/03/2004	2 sessions
	02/04/2004	2 sessions
	02/05/2004	2 sessions

Total Forum Fees = \$ 16,875.00

The Arbitration Panel has assessed \$ 8,437.50 of the forum fees jointly and severally to John W. Anderson and Barbara E. Anderson.

The Arbitration Panel has assessed \$ 8,437.50 of the forum fees jointly and severally to Bock Evans Financial Counsel, Mutual Securities, Inc., Mary C. Evans and Thomas H. Bock.

Fee Summary

Claimants, John W. Anderson and Barbara E. Anderson, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 8,437.50
Total Fees	= \$ 8,737.50
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 7,312.50

Respondent, Mutual Securities, Inc., is liable for:

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

Respondents, Bock Evans Financial Counsel, Mutual Securities, Inc., Mary C. Evans and Thomas H. Bock are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 8,437.50
Total Fees	= \$ 8,437.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,437.50

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

ARBITRATION PANEL

Jerry Alan Donley, Esq. - Public Arbitrator, Presiding Chair
Malcolm T. Cleland - Public Arbitrator
William A. Conklin- Non-Public Arbitrator

Concurring Arbitrators:

Malcolm T. Cleland
Public Arbitrator

Signature Date

William A. Conklin
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator:

Jerry Alan Donley, Esq.
Public Arbitrator, Presiding Chair

Signature Date

2/14/01
Date of Service (NASD use only)

ARBITRATION PANEL

Jerry Alan Donley, Esq. - Public Arbitrator, Presiding Chair
Malcolm T. Cleland - Public Arbitrator
William A. Conklin - Non-Public Arbitrator

Concurring Arbitrators:

Malcolm T. Cleland

Malcolm T. Cleland
Public Arbitrator

02/11/04
Signature Date

William A. Conklin
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator:

Jerry Alan Donley, Esq.
Public Arbitrator, Presiding Chair

Signature Date

2/14/04
Date of Service (NASD use only)


ARBITRATION PANEL

Jerry Alan Donley, Esq. - Public Arbitrator, Presiding Chair
Malcolm T. Cleland - Public Arbitrator
William A. Conklin - Non-Public Arbitrator

Concurring Arbitrators:

Malcolm T. Cleland
Public Arbitrator

Signature Date



William A. Conklin
Non-Public Arbitrator

2-11-04

Signature Date

Dissenting Arbitrator:

Jerry Alan Donley, Esq.
Public Arbitrator, Presiding Chair

Signature Date

2/19/04

Date of Service (NASD use only)

ARBITRATION PANEL

Jerry Alan Donley, Esq. - Public Arbitrator, Presiding Chair
Malcolm T. Cleland - Public Arbitrator
William A. Conklin - Non-Public Arbitrator

Concurring Arbitrators:

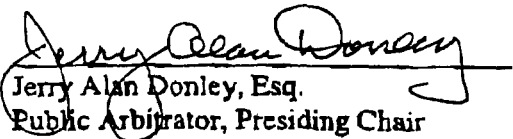
Malcolm T. Cleland
Public Arbitrator

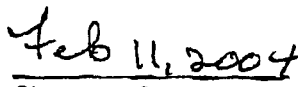
Signature Date


William A. Conklin
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator:


Jerry Alan Donley, Esq.
Public Arbitrator, Presiding Chair


Signature Date


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