

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joanne T. Fichera and Andrew J. Fichera (Claimants) vs. Gruntal & Co., L.L.C., First Union Securities, Inc., and Frederick D. Jewett (Respondents)

Case Number: 02-04779

Hearing Site: Boston, Massachusetts

Joanne T. Fichera and Andrew J. Fichera (Claimants) vs. First Union Securities, Inc., and Frederick D. Jewett (Respondents)

Case Number: 02-04780

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customers vs. Terminated Member and Associated Person

Customers vs. Member and Associated Person

REPRESENTATION OF PARTIES

Case Number 02-04779

Claimants Andrew J. Fichera ("A. Fichera") and Joanne T. Fichera ("J. Fichera") hereinafter collectively referred to as "Claimants": Richard W. Kearney, Esq., Kearney & Associates, Rockland, MA.

Respondent Gruntal & Co., Inc. ("Gruntal"): Donald N. Cohen, Gruntal & Co., Inc., New York, NY.

Respondents First Union Securities, Inc. ("First Union") and Frederick D. Jewett ("Jewett") hereinafter collectively referred to as "Respondents": Demian J. Betz, Esq., Wachovia Securities, LLC, Richmond, VA.

CASE INFORMATION

Case Number 02-04779

Statement of Claim filed on or about: August 8, 2002.

A. Fichera signed the Uniform Submission Agreement: June 11, 2002.

J. Fichera signed the Uniform Submission Agreement: June 11, 2002.

Statement of Answer filed by Respondent Jewett on or about: December 15, 2004.

Joint Statement of Answer to Consolidated Claims filed by Respondents on or about: December 15, 2004.

Jewett signed the Uniform Submission Agreement: December 16, 2004.

First Union signed the Uniform Submission Agreement: December 15, 2004.

Gruntal did not submit a Statement of Answer or sign the Uniform Submission Agreement.

Case Number 02-04780

Statement of Claim filed on or about: August 8, 2002.

A. Fichera signed the Uniform Submission Agreement: June 11, 2002.

J. Fichera signed the Uniform Submission Agreement: June 11, 2002.

CASE SUMMARY

Case Number 02-04779

Claimants asserted the following causes of action: misrepresentation; failure to provide timely prospectus and other material information; unauthorized activity; breach of fiduciary duty; omissions; negligence; unsuitability; failure to supervise; failure to respond; violation of NASD Rules 2210, 2260, 2280, 2300, 2310, 2340, 2430, 2440, and 2500, and conflicts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Case Number 02-04780

Claimants asserted the following causes of action: misrepresentation, failure to provide timely prospectus and other material information, unauthorized activity, breach of fiduciary duty, omissions, negligence, unsuitability, failure to supervise, failure to respond, conflicts of interest, violation of NASD Rules 2210, 2260, 2280, 2300, 2310, 2340, 2430, 2440, and 2500, and conflicts.

RELIEF REQUESTED

Case Number 02-04779

Claimants requested unspecified compensatory damages, punitive damages, refunds of commissions, fees, charges, costs, attorneys' fees, witness fees, expert fees, transportation fees, and such other relief as is deemed fair and proper.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of this matter from Respondent Jewett's CRD Records, and any other relief as is just and proper.

Case Number 02-04780

Claimants requested unspecified compensatory damages, punitive damages plus interest, refunds of commissions, fees, charges, costs, attorneys' fees, witness fees, expert fees, transportation fees, and such other relief as is deemed fair and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Director of Arbitration granted Claimants' request to Consolidate Case Number 02-4779 with Case Number 02-4780.

On October 29, 2002 Respondent Gruntal filed for protection under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York under the caption *In re GCO Services, LLC, Case No. 02-15360*. Accordingly, Claimants' claims against Respondent Gruntal were stayed.

On or about October 17, 2005, Respondents filed a Motion for Sanctions and to Dismiss Claimants' Claims. After reviewing all party submission including Claimants Motion for Reconsideration, the Panel determined to grant the Respondents' Motion and dismiss this arbitration with prejudice. The Panel determined that Claimants failed to comply with the Panel's Discovery Order.

AWARD

After considering the pleadings, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims 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	= \$ 250.00
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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 person at the time of the events giving rise to the dispute. Accordingly, First Union Securities, Inc. is a party.

Member Surcharge	= \$ 1,500.00
Pre-hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 25-27, 2005, adjournment by Claimants	= \$ 1,000.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,000.00/session	= \$ 2,000.00
Pre-hearing conferences: April 1, 2005 1 session	
December 15, 2005 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 2,000.00

The Panel assessed \$2,000.00 of the forum fees against the Claimants.

Fee Summary

1. Claimants are liable for:

Initial Filing Fee	= \$ 250.00
Adjournment Fee	= \$ 1,000.00
Forum Fees	= \$ 2,000.00
<hr/> Total Fees	<hr/> = \$ 3,250.00
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,000.00

2. First Union is solely liable for:

<u>Member Fees</u>	<u>= \$ 4,450.00</u>
Total Fees	= \$ 4,450.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Warren D. Hutchison, Esq.	-	Public Arbitrator, Presiding Chairperson
Barton B. Skeen, Jr., Esq.	-	Public Arbitrator
Robert H. Hughes	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Warren D. Hutchison, Esq.
Public Arbitrator, Presiding Chairperson

4/28/06
Signature Date

Barton B. Skeen, Jr., Esq.
Public Arbitrator

Signature Date

Robert H. Hughes
Non-Public Arbitrator

Signature Date

April 28, 2006

Date of Service (For NASD Dispute Resolution use only)

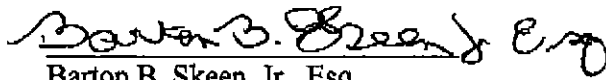
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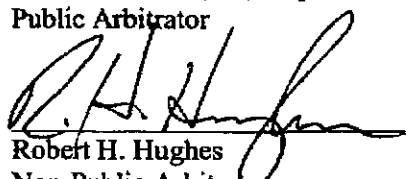
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