

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Helen Weiss IRA (Claimant) v. Michael A. Ratner and Dreyfus Service Corporation
(Respondents)

Case Number: 02-04903

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Associated Person and Member.

REPRESENTATION OF PARTIES

Claimant Helen Weiss IRA ("Weiss") hereinafter referred to as "Claimant": George W. Klein, Esq., Law Offices of George W. Klein, Forest Hills, NY.

Respondents Michael A. Ratner ("Ratner") and Dreyfus Service Corporation ("Dreyfus") hereinafter collectively referred to as "Respondents": Joel S. Forman, Esq., Curtis, Mallet-Prevost, Colt & Mosle, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2002.

Claimant signed the Uniform Submission Agreement: August 5, 2002.

Joint Statement of Answer filed by Respondents on or about: November 19, 2002.

Respondent Ratner signed the Uniform Submission Agreement: October 18, 2002.

Respondent Dreyfus signed the Uniform Submission Agreement: October 3, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; breach of contract; breach of fiduciary duty; common law fraud; negligence; misrepresentation; and respondeat superior. Claimant's claim involved the investment in a variable annuity.

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

RELIEF REQUESTED

Claimant requested that the Arbitration Panel issue an award granting a full rescission of the entire variable annuity investment of \$655,421.00 and that said amount be deposited back into Claimant's IRA account; punitive damages in the amount of \$125,000.00;

reasonable attorneys' fees; interest; and costs and disbursements.

Respondents requested that the Panel dismiss with prejudice the Statement of Claim; order that the claims be expunged from Respondent Ratner's records with the Central Registration Depository; and award Respondents their costs, including attorneys' fees.

OTHER ISSUES CONSIDERED AND 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.

AWARD

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

1. Respondent Dreyfus is liable for and shall pay to Claimant compensatory damages in the amount of \$80,000.00.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael A. Ratner'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 Ratner must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. 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	= \$375.00
--------------------------	------------

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 person at the time of the events giving rise to the dispute. Accordingly, Dreyfus Service Corporation is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 3-6, 2003, adjournment by Respondents	= \$1,200.00
--	--------------

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: April 25, 2003 1 session	
Seven (7) Hearing sessions @ \$1,200.00	= \$8,400.00
Hearing Dates: June 7, 2004 2 sessions	
June 8, 2004 2 sessions	
June 9, 2004 2 sessions	
June 10, 2004 1 session	
Total Forum Fees	= \$9,600.00

1. The Panel has assessed \$9,600.00 of the forum fees against Respondent Dreyfus.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 1,575.00
Refund Due Claimant	= \$ 1,200.00
2. Respondent Dreyfus is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 9,600.00
Total Fees	= \$16,600.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 9,600.00
3. Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 1,200.00

<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

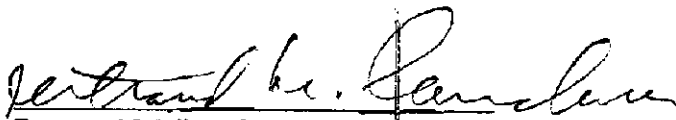
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Bertrand M. Lanchner, Esq.	-	Public Arbitrator, Presiding Chairperson
James M. Nevler	-	Public Arbitrator
Steven M. Bloom, Ph.D	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Bertrand M. Lanchner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

James M. Nevler
Public Arbitrator

Signature Date

Steven M. Bloom, Ph.D
Non-Public Arbitrator

Signature Date

June 24, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Bertrand M. Lanchner, Esq.	-	Public Arbitrator, Presiding Chairperson
James M. Nevler	-	Public Arbitrator
Steven M. Bloom, Ph.D	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

Bertrand M. Lanchner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



James M. Nevler
Public Arbitrator



Signature Date

Steven M. Bloom, Ph.D
Non-Public Arbitrator

Signature Date

June 24, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Bertrand M. Lanchner, Esq.	-	Public Arbitrator, Presiding Chairperson
James M. Nevler	-	Public Arbitrator
Steven M. Bloom, Ph.D		Non-Public Arbitrator

Concurring Arbitrators' Signatures


I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Bertrand M. Lanchner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

James M. Nevler
Public Arbitrator

Signature Date



Steven M. Bloom, Ph.D
Non-Public Arbitrator

Signature Date

June 24, 2004
Date of Service (For NASD Dispute Resolution use only)