

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

The Holohan Family Trust

and

02-05054
Phoenix, Arizona

Name of Respondents

Buckman, Buckman & Reid, Inc.
Mark Elliott
Robert R. Yasn timer
Harry J. Buckman, Jr.

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

REPRESENTATION OF PARTIES

The Holohan Family Trust ("**Claimant**") was represented by Paul S. Gerding, Sr., Esq. and Richard Lustinger, Esq., Lieberman Dodge Gerding Kothe & Anderson, Ltd., Phoenix, Arizona.

Buckman, Buckman & Reid, Inc. ("**Respondent BBR**"), Mark Elliott ("**Respondent Elliott**"), Robert R. Yasn timer ("**Respondent Yasn timer**") and Harry J. Buckman, Jr. ("**Respondent Buckman**") collectively as ("**Respondents**") were represented by Martin P. Unger, Esq., Certilman Balin Adler & Hyman, LLP, East Meadow New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about August 28, 2002. Claimant's Pre-Hearing Brief was filed on or about October 7, 2003. Claimant's Motion to Amend Complaint was filed on or about October 7, 2003. Submission Agreement of Claimant The Holohan Family Trust was signed on August 26, 2002 by Dr. William J. Holohan and Charlotte T. Holohan as Trustees.

Statement of Answer was filed by Respondents Buckman, Buckman & Reid, Inc., Mark Elliott, Robert R. Yasn timer, and Harry J. Buckman, Jr. on or about October 28, 2002. Respondents' Pre-Hearing Brief was filed on or about October 2, 2003. Submission Agreement of Respondent Buckman, Buckman & Reid, Inc. was signed on October 14, 2003 by H. J. Buckman, Jr. Submission Agreement of Respondent Mark Elliott was signed on October 17, 2002. Submission Agreement of Respondent Robert R. Yasn timer was signed on October 10, 2002. Submission Agreement of Respondent Harry J. Buckman, Jr. was signed on October 20, 2002.

CASE SUMMARY

Claimant alleged as follows:

- That Respondents churned their account, engaged in unauthorized trading, traded in unsuitable securities, overcharged commissions, were negligent, breached their fiduciary duties, and that Respondent BBR failed to properly supervise its brokers.
- During the 23 months that Respondents Yasniss and Elliott acted as their brokers, they engaged in many unauthorized trades without their knowledge or consent,
- In addition, Respondents engaged in transactions wholly unsuitable for them in light of their age and investment objectives.
- BBR failed to properly supervise the individual brokers.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

That there were no unauthorized transactions in Claimants' account; all transactions in the account were specifically ordered by Claimant; such transactions were suitable and consistent with Claimant's stated investment objectives; and the account was not churned because Claimant at all times maintained complete control over it.

At the time that Claimants opened their account they represented that they had thirty-five years investment experience with stocks, ordered an average of fifty stock transactions per year, had a total net worth, exclusive of residence, of \$2 million, a liquid net worth of \$1.5 million, and an annual income of \$100,000. They also maintained accounts at other broker-dealers. Their investment objectives included trading and speculation and hedging.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$215,849.32 and punitive damages in the amount of \$20,000.00 for a total of \$235,849.32. Claimant also requested attorneys' fees and expenses, including expert witness fees and expenses, in the aggregate amount of \$132,822.40.

Respondents requested that the claims asserted against them be dismissed with prejudice, that they be awarded their costs and attorneys' fees and that they be awarded such other relief as the arbitrators deem fit.

OTHER ISSUES CONSIDERED & DECIDED

On or about October 7, 2003, Claimants filed a Motion to Amend the Statement of Claim requesting that Claimant be granted leave to add a claim for punitive damages against Respondent Buckman, Buckman & Reid, Inc. The Arbitration Panel considered oral arguments presented on behalf of the parties at the commencement of the hearing on October 13, 2003. By Order dated October 14, 2003, the Arbitration Panel denied Claimant's Motion to Amend.

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 the NASD Dispute Resolution (the "NASD").

AWARD

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

1. The evidence presented by the parties was, at times, inconsistent and conflicting and, therefore, cast doubt on the credibility of the witnesses on both sides of the dispute. The panel weighed the evidence and concluded that Claimant and Respondents share responsibility for the losses incurred in Claimant's account.
2. Claimant has not established the unauthorized trading claims as to any of the Respondents. Claimant has established the claims of unsuitability and excessive trading against Respondents Mark Elliott, Harry Buckman, Jr., and Buckman, Buckman & Reid, Inc., who are jointly and severally liable to Claimant for the damages awarded herein.
3. Based on the arbitrators' findings and the record in this case, Claimant is hereby awarded compensatory damages against Respondents Mark Elliott, Harry J. Buckman, Jr., and Buckman, Buckman & Reid, Inc., jointly and severally, in the amount of \$75,000, plus prejudgment interest from August 1, 2003, at the Arizona statutory rate, which is currently 10% per annum, plus post-judgment interest at the same rate until paid in full. Claimant did not establish entitlement to an award of attorneys' fees and expenses.
4. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Robert R. Yasniss'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 Robert R. Yasniss must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

5. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
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 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is(are) Buckman, Buckman & Reid, Inc..

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Dates September 15-19, 2003, adjournment requested by Claimant. = \$1,125.00

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(s) with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference(s):	March 20, 2003	1 session	
One (1) Pre-hearing session(s) with Panel x \$1,125.00			= \$1,125.00
Pre-hearing conference(s):	March 4, 2003	1 session	
Eight (8) Hearing sessions x \$1,125.00			= \$9,000.00
Hearing Date(s):	October 13, 2003	2 sessions	
	October 14, 2003	2 sessions	
	October 15, 2003	2 sessions	
	<u>October 16, 2003</u>	<u>2 sessions</u>	
Total Forum Fees			= \$10,575.00

The Arbitration Panel has assessed \$5,062.50 of the forum fees to The Holohan Family Trust.

The Arbitration Panel has assessed \$5,512.50 of the forum fees jointly and severally to Buckman, Buckman & Reid, Inc., Mark Elliott, and Harry J. Buckman, Jr.

Fee Summary

Claimant, The Holohan Family Trust, shall be and hereby is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	= \$ 5,062.50
Total Fees	= \$ 6,487.50
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 5,062.50

Respondent, Buckman, Buckman & Reid, Inc., shall be and hereby is liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Buckman, Buckman & Reid, Inc., Mark Elliott, and Harry J. Buckman, Jr., shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 5,512.50
Balance Due NASD Dispute Resolution	= \$ 5,512.50

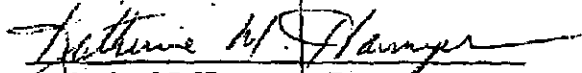
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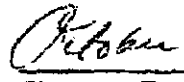
All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Katherine M. Harmeyer, Esq. - Public Arbitrator, Presiding Chair
Charles R. Berry, Esq. - Public Arbitrator
James B. Vessey, Esq. - Non-Public Arbitrator

Concurring Arbitrators:


Katherine M. Harmeyer, Esq.
Public Arbitrator, Presiding Chair

 22, 2003
Signature Date

Charles R. Berry, Esq.
Public Arbitrator

Signature Date

James B. Vessey, Esq.
Non-Public Arbitrator

Signature Date

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James B. Vessey, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Katherine M. Harmeyer, Esq.
Public Arbitrator, Presiding Chair

Signature Date



10/22/03

Charles R. Berry, Esq.
Public Arbitrator

Signature Date

James B. Vessey, Esq.
Non-Public Arbitrator

Signature Date

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James B. Vessey, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

Signature Date

Charles R. Berry, Esq.
Public Arbitrator

Signature Date


James B. Vessey, Esq.
Non-Public Arbitrator


Signature Date