

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Thomas R. and Beverly J. Urban

and

02-05605
Phoenix, Arizona

Name of Respondents

Financial Network Investment Corp.
Michael D. Miller
Stephen P. Emanuels
Capital Planning Corp.

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

REPRESENTATION OF PARTIES

Thomas R. and Beverly J. Urban ("Claimants") were represented by Raymond M. Hunter, Esq., and Jeana R. Webster, Esq. Galbut & Hunter P.C., Phoenix, Arizona.

Financial Network Investment Corp. ("Respondent FNIC"), Michael D. Miller ("Respondent Miller"), Stephen P. Emanuels ("Respondent Emanuels"), and Capital Planning Corp. ("Respondent Capital Planning") were represented by Jesse B. Simpson, Esq., Lewis and Roca LLP, Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim and Demand for Arbitration was filed on or about September 20, 2002. Claimants' Hearing Memorandum was filed on or about October 20, 2003. Submission Agreement of Claimants Thomas R. and Beverly J. Urban was signed on September 19, 2002.

Response to Statement of Claim was filed by Respondents Financial Network Investment Corp., Michael D. Miller, Stephen P. Emanuels and Capital Planning Corp. on or about November 18, 2002. Respondents' Trial Brief was filed on or about October 20, 2003. Submission Agreement of Respondent Financial Network Investment Corp. was signed on October 3, 2002 by Tom Wiltrakis. Submission Agreement of Respondent Michael D. Miller was signed on January 6, 2003. Submission Agreement of Respondent Stephen P. Emanuels was signed on January 6, 2003. Submission Agreement of Respondent Capital Planning Corp. was signed on January 6, 2003 by Michael D. Miller.

CASE SUMMARY

Claimants alleged that Respondents failed to design a suitable portfolio for the investment of their retirement monies, failed to heed their concerns as they expressed their fear of remaining in an unsuitable portfolio made up of volatile and risky investments during "a historic market decline" and failed to execute sale instructions given to them at the time Mr. Urban closed his account.

Respondents denied the allegations set forth in the Statement of Claim. In their Trial Brief, Respondents summarized the case as follows:

As we said in the Answer to the statement of claim, this claim is an outrageous effort by multi-millionaire claimants Thomas R. and Beverly J. Urban to shift the responsibility for Mr. Urban's own well-considered investment decisions to the financial advisors who gave him the exact investment advice he requested. Mr. Urban bought eleven equity mutual funds managed by highly regarded investment advisors. His only complaint is that the funds (which were purchased close to the market highs) went down as the market declined. Indeed, when he called to transfer his account, Mr. Urban admitted that respondents had provided him sound advice consistent with his stated goals.

RELIEF REQUESTED

Claimants requested an award of compensatory damages in excess of \$259,000.00, pre and post award interest, costs, attorneys fees, and such other and further relief as may be appropriate.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees. In addition, Respondents requested that their CRD records be expunged of any reference to this matter.

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 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Financial Network Investment Corp., Michael D. Miller, and Stephen P. Emanuels' 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, Respondents Financial Network Investment Corp., Michael D. Miller, and Stephen P. Emanuels must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. 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.
4. 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
Counter claim filing fee	= \$500.00

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 Financial Network Investment Corp.

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

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:

1	Pre-hearing session(s) with Panel	x	1,125.00	\$	1,125.00
	April 25, 2003	1	session		
6	Hearing sessions	x	1,125.00	\$	6,750.00
	October 28, 2003	2	sessions		
	October 29, 2003	2	sessions		
	October 30, 2003	2	sessions		
Total Forum Fees				\$	7,875.00

The Arbitration Panel has assessed \$3,937.50 of the forum fees to Thomas R. and Beverly J. Urban.

The Arbitration Panel has assessed \$3,937.50 of the forum fees jointly and severally to Financial Network Investment Corp., Michael D. Miller, Stephen P. Emanuels, and Capital Planning Corp.

Fee Summary

Claimants, Thomas R. and Beverly J. Urban shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	3,937.50
Total Fees	= \$	4,237.50
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,812.50

Respondent, Financial Network Investment Corp., shall be and hereby is liable for:

Counterclaim Filing Fee	= \$	500.00
Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	0.00
Total Fees	= \$	5,700.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	500.00

Respondents, Financial Network Investment Corp., Michael D. Miller, Stephen P. Emanuels, and Capital Planning Corp., shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	3,937.50
<u>Total Fees</u>	= \$	3,937.50
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,937.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Charles R. Berry, Esq. - Public Arbitrator, Presiding Chair
James D. Knotter, Esq. - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Charles R. Berry
Charles R. Berry, Esq.
Public Arbitrator, Presiding Chair

November 10, 2003
Signature Date

/s/ James D. Knotter
James D. Knotter, Esq.
Public Arbitrator

November 3, 2003
Signature Date

/s/ Jack Gunter
Jack Gunter
Non-Public Arbitrator

November 2, 2003
Signature Date

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<u>Forum Fees</u>	= \$	3,937.50
<u>Total Fees</u>	= \$	3,937.50
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,937.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Charles R. Berry, Esq. - Public Arbitrator, Presiding Chair
James D. Knotter, Esq. - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

Charles R. Berry
Charles R. Berry, Esq.
Public Arbitrator, Presiding Chair

11/10/03
Signature Date

James D. Knotter, Esq.
James D. Knotter, Esq.
Public Arbitrator

Signature Date

Jack Gunter
Jack Gunter
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 02-05605
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NASD Dispute Resolution
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<u>Forum Fees</u>	= \$	3,937.50
<u>Total Fees</u>	= \$	3,937.50
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,937.50

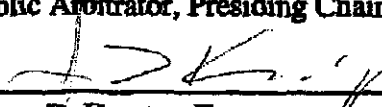
All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Charles R. Berry, Esq. - Public Arbitrator, Presiding Chair
James D. Knotter, Esq. - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

Charles R. Berry, Esq.
Public Arbitrator, Presiding Chair



James D. Knotter, Esq.
Public Arbitrator

Jack Gunter
Non-Public Arbitrator

Signature Date

11/3/2003

Signature Date

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 02-05605
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<u>Forum Fees</u>	= \$	3,937.50
<u>Total Fees</u>	= \$	3,937.50
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,937.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Charles R. Berry, Esq. - Public Arbitrator, Presiding Chair
James D. Knotter, Esq. - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

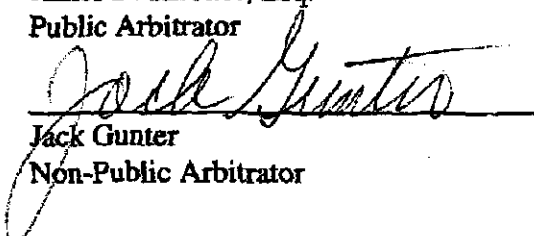
Concurring Arbitrators:

Charles R. Berry, Esq.
Public Arbitrator, Presiding Chair

Signature Date

James D. Knotter, Esq.
Public Arbitrator

Signature Date



Jack Gunter
Non-Public Arbitrator

11/2/03

Signature Date