

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Virginia Griffith

Case Number: 02-05634

Name of the Respondents
William Scott Wiley,
Invest Financial Corp.,
Kenneth W. McGovern,
and SII Investments.

Hearing Site: Kansas City, Missouri

Type of Controversy: Customer v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Barry D. Estell, Esq. with law offices located in Mission, Kansas represented Claimant Virginia Griffith.

Charles A. Getto, Esq., of the firm McAnany Van Cleave & Phillips located in Kansas City, Kansas, represented Respondents SII Investments, Inc. ("SII Investments") and Kenneth W. McGovern ("McGovern").

Amy E. Rush, Esq., of the firm Sonnenschein Nath & Rosenthal located in Kansas City, Missouri, represented Respondents Invest Financial Corp. ("Invest Financial") and William Scott Wiley ("Wiley").

CASE INFORMATION

Claimant Griffith signed the Uniform Submission Agreement: August 16, 2002.
Statement of Claim filed on or about: September 23, 2002.

Respondent SII Investments signed the Uniform Submission Agreement: November 20, 2002.
Respondent McGovern signed the Uniform Submission Agreement: November 15, 2002.
Statement of Answer filed by Respondents SII Investments and McGovern on or about:
November 26, 2002.
Amended Statement of Answer filed by Respondents SII Investments and McGovern on or
about: March 11, 2003.

Respondent Invest Financial signed the Uniform Submission Agreement: November 19, 2002.
Respondent Wiley signed the Uniform Submission Agreement: November 19, 2002.
Statement of Answer, Defenses and Motion to Dismiss filed by Respondents Invest Financial
and Wiley on or about: November 26, 2002.

Claimants filed an objection to the filing of a Motion to Dismiss because it is not provided for in the NASD Code of Arbitration Procedure ("Code") on or about: December 12, 2002.
Respondents Invest Financial and Wiley filed a Reply to Claimant's December 12, 2002 submission on or about: December 20, 2002.

CASE SUMMARY

Claimant Griffith asserted the following causes of action: Unsuitability; "Mutual Fund Switching" for the purpose of generating commissions; Fraud; and Misrepresentation.

The causes of action relate to the Kemper High Yield and MFS World Asset Allocation Fund.

Unless specifically admitted in their Answer, Respondents Invest Financial and Wiley denied the allegations made in the Statement of Claim and asserted the following defenses: statement of claim fails to state a claim upon which relief may be granted; the causes of action are barred based on the doctrines of estoppel and waiver; the causes of action are barred due to the applicable statutes of limitations; assumption of risk; failure to diversify; failure to mitigate damages; Claimant contributed to the damage she may have suffered; claimant ratified/authorized the trades complained of; and Claimant is not entitled to and cannot recover punitive damages.

Unless specifically admitted in their Answer, Respondents SII Investments and McGovern denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a Claim upon relief can be granted; assumption of risk; comparative fault bars Claimant from recovering from respondents; failure to follow her stated investment objectives and strategy; Claimant is not entitled to receive interest, to rescind her investment, or to recover attorney's fees or any other relief, monetary or otherwise, from Respondents; Claimant failed to mitigate; Claimant's claims are barred by the applicable statutes of limitation; claims for punitive damages are improper and should be stricken or otherwise denied; Claimant's claims for punitive damages are impermissible or otherwise limited under applicable federal and/or state law and constitutional principles; the decline in value of Claimant's portfolio represents a decline in the market generally and was not a loss until voluntarily recognized by Claimant; Respondents SII Investments and McGovern incorporated by reference any legal or factual defenses in the Statement of Answer of Respondents Wiley and Invest Financial Corporation; and Respondents SII Investments and McGovern reserved the right to amend their Statement of Answer to add any additional defenses disclosed during discovery or investigation.

RELIEF REQUESTED

Claimant Griffith requested:

Compensatory Damages	\$500,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	any relief the panel deems

Respondents each requested:	just and equitable
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	denial and dismissal of claims

OTHER ISSUES CONSIDERED AND DECIDED

Claimant settled and dismissed her claims against Respondent William Scott Wiley in this matter.

At hearing Claimant requested that the Arbitrator Potter recuse himself from the panel. Arbitrator Potter granted the request and the arbitration hearing proceeded with two arbitrators.

AWARD

After considering the pleadings, 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 SII Investments, Inc. is liable for and shall pay to Claimant Virginia Griffith the sum of \$3,000.00 as compensatory damages.
2. Any and all claims asserted against Invest Financial Corp. are denied and hereby dismissed.
3. Except as specified herein, parties shall bear their own costs, including attorney's fees.
4. 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	= \$ 300.00
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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, Invest Financial Corp. and SII Investments are each assessed the following fees:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

Respondent Invest Financial requested adjournment of the September 23-25, 2003 dates:
= \$ 1,125.00

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 at \$1,125.00	= \$ 1,125.00
Pre-hearing conference: September 23, 2003 1 session	
Four (4) Hearing sessions at \$1,125.00	= \$ 4,500.00
Hearing Dates: May 26, 2004 2 sessions	
May 27, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 5,625.00

The Panel assessed the \$5,625.00 in forum fees to SII Investments.

EEE SUMMARY

1. Claimant Virginia Griffith is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund Due from NASD Dispute Resolution	= \$ 1,125.00

2. Respondent SII Investments, Inc. is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 5,625.00
<u>Total Fees</u>	= \$10,825.00
<u>Less payments</u>	= \$ 2,450.00
Balance Due NASD Dispute Resolution	= \$ 8,375.00

3. Respondent Invest Financial Corp. is solely liable for:

Member Fees	= \$ 5,200.00
<u>Adjournment Fee</u>	= \$ 1,125.00
<u>Total Fees</u>	= \$ 6,325.00
<u>Less payments</u>	= \$ 2,450.00
Balance Due NASD Dispute Resolution	= \$ 3,875.00

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

ARBITRATION PANEL

Mark D. Wasserstrom, Esq.	-	Public Arbitrator, Presiding Chairperson
Sandra K. Hummel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Mark Wasserstrom

06/22/04

Mark D. Wasserstrom, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/ Sandra K. Hummel

06/25/04

Sandra K. Hummel
Non-Public Arbitrator

Signature Date

06/25/04

Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

6/22/04

Signature Date

Sandra K. Hummel
Non-Public Arbitrator

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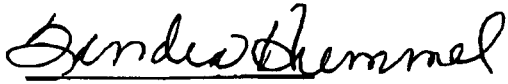
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Public Arbitrator, Presiding Chairperson

Signature Date



Sandra K. Hummel
Non-Public Arbitrator

6/25/04

Signature Date

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