
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-05730

Irving F. Levitt, Individually
Irving F. Levitt as Co-trustee of the Levitt Charitable
Remainder Annuity Trust U/A dated 9/22/95
Irving F. Levitt as Trustee of the Irving F. Levitt
Revocable Trust U/A dated 3/1/96, as amended
Florence C. Levitt, Individually
Florence C. Levitt as Co-trustee of the Levitt Charitable
Remainder Annuity Trust U/A dated 9/22/95
Florence C. Levitt as Trustee of the Florence C. Levitt
Revocable Trust U/A dated 3/1/96, as amended

Names of the Respondents

Hearing Site: Tampa, Florida

Shields & Company
Alan Earl Morris
John Patrick Hughes
Brian Hudson Keep
Robert Edwin Ransom
Ralph Joseph Scarpa
David Vincent Shields
Joseph Vincent Shields
Joseph Anthony Zock
Deutsche Bank Securities, Inc., f/k/a DB Alex Brown LLC

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

REPRESENTATION OF PARTIES

For Irving F. Levitt, Individually, Irving F. Levitt as Co-trustee of the Levitt Charitable Remainder Annuity Trust U/A dated 9/22/95, Irving F. Levitt as Trustee of the Irving F. Levitt Revocable Trust U/A dated 3/1/96, as amended, Florence C. Levitt, Individually, Florence C. Levitt as Co-trustee of the Levitt Charitable Remainder Annuity Trust U/A Dated 9/22/95 and Florence C. Levitt as Trustee of the Florence C. Levitt Revocable Trust dated 3/1/96, as amended, hereinafter collectively referred to as "Claimants": W. Andrew Clayton, Jr., Esq., Wallace, Browning, Clayton & Krawetz, Sarasota, Florida and Frank E. Strelec, Esq., Williams, Parker, Harrison, Dietz & Getzen, Sarasota, Florida.

For Respondents Shields & Company ("S&C"), Alan Earl Morris ("Morris"), John Patrick Hughes ("Hughes"), Brian Hudson Keep ("Keep"), Robert Edwin Ransom ("Ransom"), Ralph Joseph Scarpa ("Scarpa"), David Vincent Shields (D. Shields"), Joseph Vincent Shields ("J. Shields") and Joseph Anthony Zock ("Zock"): Robert V. Williams, Esq., Williams, Schifino, Mangione & Steady, P.A., Tampa, Florida.

For Respondent Deutsche Bank Securities, Inc. ("DBS"): Robert Erickson, Esq., Bingham McCutchen LLP, Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: September 20, 2002.

Claimants signed the Uniform Submission Agreement: September 18, 2002.

Statement of Answer and Request for Expungement filed by Respondents S&C, Morris, Hughes, Keep, Ransom, Scarpa, D. Shields, J. Shields and Zock on or about: December 13, 2002.

Statement of Answer filed by Respondent DBS on or about: July 3, 2003.

Respondent Zock signed the Uniform Submission Agreement: December 9, 2002.

Respondents S&C, Hughes, Keep, J. Shields, D. Shields and Scarpa signed the Uniform Submission Agreement: December 10, 2002.

Respondents Morris, Ransom and DBS signed the Uniform Submission Agreement: December 11, 2002.

Motion to Dismiss the Statement of Claim filed by Respondent DBS on or about: December 13, 2002.

Reply to Motion to Dismiss the Statement of Claim filed by Claimants on or about: March 17, 2003.

Emergency Motion to take the Videotape Deposition of Claimant Irving Levitt filed by Claimants on or about: January 29, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: 1) violation of Florida Statutes, Chapter 517; 2) failure to supervise; 3) violation of federal securities law; 4) violation of the principles of fair trading and honest dealing as to Respondents S&C, DBS and Morris; 5) breach of fiduciary duty as to Respondents S&C and Morris; 6) negligence as to Respondents S&C and Morris; 7) breach of contract as to Respondent S&C; 8) fraud; and, 9) negligent misrepresentation as to Respondents S&C and Morris. The causes of action relate to the purchase and sale of various stocks including, but not limited to, America Online, Broadcom Corp., Cisco, Lucent Technologies, Intel Corp., Ciena Corp., MCI Worldcom, Motorola, Juniper Networks, Applied Micro and Metromedia Fiber plus margin trading in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$3,000,000.00, statutory interest, exemplary damages, expectation losses, costs, statutory relief, attorney's fees in an amount to be awarded by a court of competent jurisdiction and such other relief as this Panel deemed just.

Respondents S&C, Zock, Hughes, Keep, J. Shields, D. Shields, Scarpa, Morris and Ransom requested that the Statement of Claim be dismissed in its entirety and an award of costs, fees and expenses and such other and further relief as the Panel deemed just, proper and equitable. In addition, said Respondents requested that the Panel enter an order expunging this matter from their NASD Central Registration Depository (the "CRD") records.

Respondent DBS requested that the Statement of Claim be dismissed in its entirety and for an award of legal fees, costs, expenses and for such other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 3, 2003, the Panel issued an Order that denied Respondent DBS' Motion to Dismiss.

On or about February 2, 2004, the Panel issued an Order that granted Claimants' Emergency Motion to take a Videotape Deposition of Claimant Irving Levitt.

During the final hearings for this matter, the Claimants dismissed their claims, with prejudice, against Respondents Keep, Ransom and Zock.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

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:

All Claimants' claims against Respondent DBS are dismissed, with prejudice.

The Panel has decided that the actual losses in this matter should be borne 60% by the remaining Respondents and 40% by the Claimants. Accordingly, Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields are found jointly and severally liable for failure to supervise and shall pay to Claimants compensatory damages in the amount of \$1,238,006.00 plus interest, calculated at the rate of 10% for one year, in the amount of \$123,800.00.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Keep, Ransom and Zock's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Keep, Ransom and Zock must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including Claimants requests for attorney's fees, exemplary damages and for further relief pursuant to Florida Statutes, Chapter 517, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$500.00

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, S&C is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Respondent DBS is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

June 28, 2004 – July 1, 2004, adjournment requested by Respondent DBS	= \$1,200.00
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Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were incurred during this proceeding.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

Four (4) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 1,800.00
Pre-hearing conferences:	
June 3, 2003	1 session
July 8, 2003	1 session
July 31, 2003	1 session
June 23, 2004	1 session

Five (5) Pre-hearing sessions with the Panel @ \$1,200.00	= \$ 6,000.00
Pre-hearing conferences:	
March 20, 2003	1 session
April 2, 2003	1 session
January 26, 2004	1 session
January 30, 2004	1 session
June 1, 2004	1 session

Twenty-six (26) Hearing sessions with the Panel @ \$1,200.00 = \$31,200.00

Hearing Dates:	July 19, 2004	2 sessions
	July 20, 2004	2 sessions
	July 21, 2004	2 sessions
	July 22, 2004	2 sessions
	July 23, 2004	2 sessions
	July 26, 2004	2 sessions
	July 27, 2004	2 sessions
	July 28, 2004	2 sessions
	July 29, 2004	2 sessions
	July 30, 2004	2 sessions
	August 2, 2004	2 sessions
	August 3, 2004	2 sessions
	August 17, 2004	2 sessions

Total Forum Fees = \$39,000.00

The Panel has assessed \$19,500.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$19,500.00 of the forum fees jointly and severally to Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 19,500.00
Total Fees	= \$ 20,000.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 18,200.00

Respondent S&C is solely liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent DBS is solely liable for:

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 1,200.00

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Total Fees	= \$ 9,750.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$19,500.00</u>
Total Fees	= \$19,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$19,500.00

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

ARBITRATION PANEL

<i>Brendan M. Murphy</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Ernest Drucker</i>	-	<i>Public Arbitrator</i>
<i>Augusto V. Perrotta</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Brendan M. Murphy
Public Arbitrator, Presiding Chairperson

08/19/04
Signature Date

/s/
Ernest Drucker
Public Arbitrator

08/18/04
Signature Date

/s/
Augusto V. Perrotta
Non-Public Arbitrator

08/19/04
Signature Date

08/23/04
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 02-05730

Award Page 6

Total Fees	= \$ 9,750.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields are jointly and severally liable for:

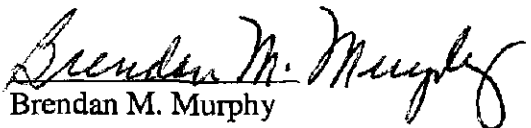
<u>Forum Fees</u>	<u>= \$19,500.00</u>
Total Fees	= \$19,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$19,500.00

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

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08/19/04
Signature Date

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Signature Date

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Signature Date

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NASD Dispute Resolution
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Award Page 6

Total Fees	= \$ 9,750.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields are jointly and severally liable for:

<u>Forum Fees</u>	= \$19,500.00
Total Fees	= \$19,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$19,500.00

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<i>Ernest Drucker</i>	-	<i>Public Arbitrator</i>
<i>Augusto V. Perrotta</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures


 Brendan M. Murphy
 Public Arbitrator, Presiding Chairperson


 Ernest Drucker
 Public Arbitrator


 Augusto V. Perrotta
 Non-Public Arbitrator


 Signature Date

Signature Date

Signature Date

8/10/04

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

NASD Dispute Resolution
 Arbitration No. 02-05730
Award Page 6

Total Fees	= \$ 9,750.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents S&C, Morris, Hughes, Scarpa, D. Shields and J. Shields are jointly and severally liable for:

<u>Firm Fees</u>	= \$19,500.00
Total Fees	= \$19,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$19,500.00

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

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Brendan M. Murphy
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Signature Date

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 Public Arbitrator

Signature Date


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 Non-Public Arbitrator

8-19-04
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