

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Frederick C. Rieck

and

02-05809  
Phoenix, Arizona

Name of Respondents

Jefferson Pilot Securities Corporation  
Polaris Financial Services, Inc.  
Gerald L. Rosanbalm

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

**REPRESENTATION OF PARTIES**

Frederick C. Rieck ("**Claimant**") appeared *pro se*.

Jefferson Pilot Securities Corporation ("**Respondent JPFC**") and Polaris Financial Services, Inc. ("**Respondent PFS**") were represented by Matthew Tracy, Esq., Winget Spadafora Schwartzberg, LLP, New York, New York.

Gerald L. Rosanbalm ("**Respondent Rosanbalm**") did not appear at the hearing.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 30, 2002. Amended and Restated Statement of Claim was filed on or about November 30, 2002. Partial Response to Respondent Jefferson Pilot Securities Corporation's Motion to Dismiss, Motion to Change Venue, Statement of Claim and Affirmative Defenses was filed on or about January 27, 2003. Reply to Respondent Jefferson Pilot Securities Corporation's Motion to Dismiss, Motion to Change Venue, Statement of Claim and Affirmative Defenses was filed on or about February 4, 2003. Reply to Respondents Jefferson Pilot Securities Corporation and Polaris Financial Group, Inc.'s Motion to Dismiss, Motion to Change Venue, Statement of Answer and Affirmative Defenses was filed on or about April 30, 2003. Submission Agreement of Claimant Frederick C. Rieck was signed on or about September 25, 2002.

Respondent Jefferson Pilot Securities Corporation's Motion to Dismiss, Motion to Change Venue, Statement of Answer and Affirmative Defenses was filed on or about January 17, 2003. Respondents Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc.'s Motion to Dismiss, Motion to Change Venue, Statement of Answer and Affirmative Defenses was filed on or about April 11, 2003.

Correspondence dated February 7, 2003 was filed by Respondent Gerald L. Rosanbalm.

### **CASE SUMMARY**

Claimant asserted the following causes of action: violations of the Common Law, fraud, breach of fiduciary duty, violations of the Securities Laws, violations of the Rules of Fair Practice, omission of facts, misrepresentations, negligence and failure to supervise. Claimant specifically alleged in the Amended and Restated Statement of Claim:

In May of 1998, I received a telephone call from Rosanbalm. Rosanbalm said, in effect, that, although he knew I invested exclusively in mutual funds, he thought it would be appropriate to diversify my portfolio further with a different sort of investment (the "Investment"). He recommended that I invest \$80,000 in buying a limited partnership interest. He told me that the partnership was a financing vehicle sponsored by Universal Pictures to finance production of a television show. Rosanbalm said that the television pilot was "pre-sold" to a network and so represented little risk. He advised me that it was in the nature of such investments that they were not profitable in their early years but that, if they were syndicated, which ordinarily occurred after several seasons, that there would be a substantial income stream from syndication fees and the like derived from the Investment.

Respondents denied the allegations set forth in the Statement of Claim. Respondents Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc. specifically stated in their Joint Statement of Answer:

In particular, the Claimant asserts that Polaris liquidated mutual funds and wired the proceeds pursuant to written instructions allegedly forged by Mr. Rosanbalm. However, the Claimant admits that he was aware of the alleged fraudulent transfer as early as September 1998 (and no later than August 1999), more than three years before commencing this arbitration. Thus, the Claimants so-called negligence and breach of fiduciary claims are clearly barred by all applicable statute of limitations. Furthermore, the Claimant admits that he authorized the Investment and received confirmations of both the liquidations and the wire transfer at issue. As such, the Claimants claims are precluded under the doctrine of ratification.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$80,000.00 in compensatory damages and \$40,000.00 in interest, plus punitive damages, costs and expenses.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

By letter dated February 3, 2004, the parties were advised of NASD's ruling on Respondents Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc.'s Motion to Change Venue as follows:

*After carefully considering all of the submissions filed in this matter, it has been determined that the Motion to Change Situs is denied.*

*This decision is made on behalf of the Director of Arbitration. The parties may request that the Arbitration Panel, once selected, reconsider the issue of situs.*

By letter dated June 25, 2004, the parties were advised of the Arbitration Panel's ruling on Respondents Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc.'s Motion to Change Venue and Motion to Dismiss as follows:

*The motions are denied in full.*

At the hearing, Claimant formally requested that the claims asserted against Respondent Rosanbalm be dismissed. The Arbitration Panel granted the request.

Respondent Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc. did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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. Claimant Frederick C. Rieck's Amended and Restated Statement of Claim has been dismissed in its entirety.
2. That 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.
3. 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, not specifically awarded or otherwise provided for above.

### **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 = \$225.00

#### **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) are Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc.

Member surcharge	\$	1,100.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	1,700.00
Total Member Fees	\$	<u>3,550.00</u>

### **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:

3	Pre-hearing session(s) with Panel	x	750.00	\$	2,250.00
	May 6, 2004	1	session		
	June 21, 2004	1	session		
	December 17, 2004	1	session		
4	Hearing sessions	x	750.00	\$	3,000.00
	January 17, 2005	2	sessions		
	January 18, 2005	2	sessions		
	Total Forum Fees			\$	5,250.00

The Arbitration Panel has assessed \$750.00 of the forum fees to Frederick C. Rieck.  
The Arbitration Panel has assessed \$4,500.00 of the forum fees jointly and severally to Jefferson Pilot Securities Corporation and Polaris Financial Services, Inc.

### **Fee Summary**

Claimant, Frederick C. Rieck, shall be and hereby is liable for:

Initial Filing Fee	= \$	225.00
<u>Forum Fees</u>	= \$	750.00
Total Fees	= \$	975.00
<u>Less payments</u>	= \$	-1,250.00
Balance to be refunded by NASD Dispute Resolution	= \$	-275.00

Respondent, Jefferson Pilot Securities Corporation, shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	-3,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent, Polaris Financial Services, Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	-3,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Jefferson Pilot Securities Corporation, Polaris Financial Services, Inc. and Gerald L. Rosanbalm shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	4,500.00
Total Fees	= \$	4,500.00
<u>Less payments</u>	= \$	-2,100.00
Balance Due NASD Dispute Resolution	= \$	2,400.00

**All balances are due to NASD Dispute Resolution**

### ARBITRATION PANEL

Richard D. Fincher, Esq. - Public Arbitrator, Presiding Chair  
Daniel J. Danvir - Public Arbitrator  
Paul J. Phillips, Jr. - Non-Public Arbitrator

### Concurring Arbitrators:

/s/ Richard D. Fincher  
Richard D. Fincher, Esq.  
Public Arbitrator, Presiding Chair

01/24/05  
Signature Date

/s/ Daniel J. Danvir  
Daniel J. Danvir  
Public Arbitrator

01/21/05  
Signature Date

/s/ Paul J. Phillips  
Paul J. Phillips, Jr.  
Non-Public Arbitrator

01/25/05  
Signature Date

Date of Service (For NASD office use only)

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Respondent, Polaris Financial Services, Inc., shall be and hereby is liable for:

Member Fees	\$	3,550.00
Total Fees	\$	3,550.00
Less payments	\$	-3,550.00
Balance Due NASD Dispute Resolution	\$	0.00

Respondents, Jefferson Pilot Securities Corporation, Polaris Financial Services, Inc. and Gerald L. Rosanbalm shall be and hereby are jointly and severally liable for:

Forum Fees	\$	4,500.00
Total Fees	\$	4,500.00
Less payments	\$	-2,100.00
Balance Due NASD Dispute Resolution	\$	2,400.00

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Daniel J. Danvir - Public Arbitrator

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Public Arbitrator, Presiding Chair

1-24-05  
Signature Date

Daniel J. Danvir  
Public Arbitrator

Signature Date

Paul J. Phillips, Jr.  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Respondent, Polaris Financial Services, Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	-3,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Jefferson Pilot Securities Corporation, Polaris Financial Services, Inc. and Gerald L. Rosanbalm shall be and hereby are jointly and severally liable for:

Forum Fees	= \$	4,500.00
Total Fees	= \$	4,500.00
<u>Less payments</u>	= \$	-2,100.00
Balance Due NASD Dispute Resolution	= \$	2,400.00

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Public Arbitrator, Presiding Chair

Daniel J. Danvir  
Daniel J. Danvir  
Public Arbitrator

\_\_\_\_\_  
Signature Date

Jan. 21, 2005  
Signature Date

\_\_\_\_\_  
Paul J. Phillips, Jr.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)



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Respondent, Polaris Financial Services, Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	-3,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Jefferson Pilot Securities Corporation, Polaris Financial Services, Inc. and Gerald L. Rosanbalm shall be and hereby are jointly and severally liable for:

Forum Fees	= \$	4,500.00
Total Fees	= \$	4,500.00
<u>Less payments</u>	= \$	-2,100.00
Balance Due NASD Dispute Resolution	= \$	2,400.00

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Public Arbitrator, Presiding Chair

Signature Date

Daniel J. Danvir  
Public Arbitrator

Signature Date

Paul J. Phillips, Jr.  
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