

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Garnett M. Pampell and the Estate of Alfred E. Pampell

and

Case Number: 02-05811
Hearing Site: Houston, Texas

Names of Respondents

H&R Block Financial Advisors, Inc., and
James L. Porter

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Garnett M. Pampell and the Estate of Alfred E. Pampell ("**Claimants**") were represented by Christine Kirchner, Esq., of Chamberlain, Hrdlicka, White, Williams and Martin, in Houston, Texas.

H&R Block Financial Advisors, Inc. ("**H&R Block**") and James L. Porter ("**Porter**") were represented by Ronald P. Kane, Esq., of Kane & Fischer, Ltd., in Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about September 30, 2002.

The Submission Agreement of Claimants, Garnett M. Pampell and the Estate of Alfred E. Pampell, was signed by Garnett Pampell individually and as Independent Executrix on or about September 27, 2002.

The Joint Statement of Answer, Motion to Dismiss and Motion to Expunge was filed by Respondents, H&R Block Financial Advisors, Inc. and James L. Porter, on or about December 16, 2002.

Respondent, H&R Block Financial Advisors, Inc., did not execute a Submission Agreement.

The Submission Agreement of Respondent James L. Porter was signed on or about April 15, 2003.

Claimants' Response and Objection to Respondents' Statement of Answer and Motion to Dismiss was filed on or about February 13, 2003.

Respondents' Reply to Claimants' Response and Objection to Respondents' Statement of Answer, Motion to Dismiss and Motion to Expunge was filed on or about March 25, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, errors/charges, margin calls, negligence, failure to supervise, and breach of fiduciary duty. The causes of action relate to the recommendation and sale of unspecified securities. Claimants opened an account in April 2000 at H&R Block (formerly know as Olde Discount Corporation). In October 2000, Alfred Pampell died, and at the time of his death, Claimants' portfolio consisted of \$25.9 million, including of \$16.4 million in margin debt and \$8.4 million in equity. Claimants allege that Respondents handled Claimants' portfolio in a reckless and negligent manner. Claimants allege that Mr. Porter churned the account and that he misrepresented and/or concealed material facts from the Claimants.

Unless specifically admitted in their Answer, Respondents, H&R Block Financial Advisors, Inc. and James L. Porter, denied the allegations made in the Statement of Claim. Respondents asserted the losses result from market forces that went against an extremely wealthy investor who made the conscious decision to trade aggressively on margin. Respondents asserted that the account in question was non-discretionary and that every trade was ordered by Mr. Pampell. Claimants signed account documents indicating that the trading activity in their accounts was consistent with their stated investment objectives and stated risk tolerance. Respondents asserted affirmative defenses including the following: Claimants have failed to state a claim in which relief may be granted; Claimants' claims are barred by the statute of frauds, and the doctrines of laches, estoppel and ratification; Claimants assumed the risk of their investment transactions and investment losses incurred; economic, industry, corporate, and market conditions and not Respondents, were responsible for Claimants' losses; and Respondents have no knowledge of or reasonable grounds to believe the existence of any facts by reason of which liability is alleged, and therefore, Respondents cannot be held liable.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory	\$10,000,000
Punitive/Exemplary	\$10,000,000

Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs and attorneys' fees, and that James L. Porter's record be expunged.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, H&R Block Financial Advisors, Inc., did not file with NASD Dispute Resolution a properly executed submission to arbitration but is 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, through counsel, is bound by the determination of the arbitration panel on all issues submitted.

At the hearing, Respondents made an oral motion for a directed verdict. The Panel granted the motion in part, on the issues of churning and unauthorized trades. The Panel denied the remainder of the motion.

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 NASD Dispute Resolution ("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.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, James L. Porter's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, James L. Porter, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 = \$600.00

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. In this matter, the member firm is H&R Block Financial Advisors, Inc.

Member surcharge	= \$ 3750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5500.00

Adjournment Fees

Adjournments requested during these proceedings:

January, 5-9, 2004, adjournment by Claimants (* waived by the Panel) = \$ 1200.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) Pre-hearing sessions with a single arbitrator x \$450.00	= \$2,250.00
Pre-hearing conferences: July 11, 2003	1 session
August 19, 2003	1 session
October 16, 2003	1 session

	December 18, 2003	1 session	
	April 6, 2004	1 session	
Two (2) Pre-hearing sessions with Panel x \$1200.00			= \$2,400.00
Pre-hearing conferences:	May 1, 2003	1 session	
	April 21, 2004	1 session	
Eleven (11) Hearing sessions x \$1200.00			= \$13,200.00
Hearing Dates:	May 3, 2004	2 sessions	
	May 4, 2004	3 sessions	
	May 5, 2004	3 sessions	
	May 6, 2004	2 sessions	
	May 7, 2004	1 session	
Total Forum Fees			= \$17,850.00

The Arbitration Panel has assessed \$17,850.00 of the forum fees to Garnett M. Pampell and the Estate of Alfred E. Pampell.

FEE SUMMARY

Claimants, Garnett M. Pampell and the Estate of Alfred E. Pampell, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 17,850.00
Total Fees	= \$ 18,450.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 16,650.00

Respondent, H&R Block Financial Advisors, Inc., is liable for:

Member Fees	= \$ 10,000.00
Total Fees	= \$ 10,000.00
Less payments	= \$ 10,750.00
Refund Due H&R Block	= \$ 750.00

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

ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
L.E. Machin - Public Arbitrator
Gregory E. Cater - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Sherry R. Wetsch, Esq.
Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

May 11, 2004
Signature Date

/s/ L.E. Machin
L.E. Machin
Public Arbitrator

May 11, 2004
Signature Date

/s/ Gregory E. Cater
Gregory E. Cater
Non-Public Arbitrator

May 10, 2004
Signature Date

May 11, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
L.E. Machin - Public Arbitrator
Gregory E. Cater - Non-Public Arbitrator

Concurring Arbitrators:

SR Wetsch
Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

5-11-04
Signature Date

L.E. Machin
L.E. Machin
Public Arbitrator

Signature Date

Gregory E. Cater
Gregory E. Cater
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

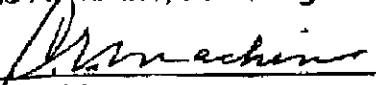
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Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
L.E. Machin - Public Arbitrator
Gregory E. Cater - Non-Public Arbitrator

Concurring Arbitrators:

Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

Signature Date



L.E. Machin
Public Arbitrator

May 11, 2004

Signature Date

Gregory E. Cater
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
L.E. Machin - Public Arbitrator
Gregory E. Cater - Non-Public Arbitrator

Concurring Arbitrators:

Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

Signature Date

L.E. Machin
Public Arbitrator

Signature Date



Gregory E. Cater
Non-Public Arbitrator

5/10/09

Signature Date

Date of Service (For NASD office use only)