

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Phyllis Silver and Phyllis Silver IRA (Claimants) v. Adolph Komorsky Investments,
Peter W. Adolph, and Marc E. Komorsky (Respondents)

Case Number: 02-06106

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants Phyllis Silver ("Silver") and Phyllis Silver IRA ("Silver IRA") hereinafter collectively referred to as "Claimants": Thomas J. Fleming, Esq., Olshan Grundman Frome Rosenzweig & Wolosky, LLP, New York, NY.

Respondents Adolph Komorsky Investments ("Adolph Komorsky Investments"), Peter W. Adolph ("Adolph"), and Marc E. Komorsky ("Komorsky") hereinafter collectively referred to as "Respondents": Richard A. Roth, Esq., Littman Krooks & Roth, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 11, 2002.

Claimants signed the Uniform Submission Agreement: October 9, 2002.

Joint Statement of Answer filed by Respondents on or about: November 22, 2002.

Respondent Adolph Komorsky Investments signed the Uniform Submission Agreement: November 21, 2002.

Respondent Adolph signed the Uniform Submission Agreement: November 21, 2002.

Respondent Komorsky signed the Uniform Submission Agreement: November 21, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; breach of fiduciary duty; unsuitability; fraud; churning; and control person liability. Claimants' claim involved common stock including, but not limited to, EPL Technologies, Inc.; At Home Corp.; Hemispherix Biopharma; GLOBIX Corp.; CMGI, Amazon.com; Mapinfo.com; Priceline.com; Amplidyne, Inc.; Symposium Corp. n/k/a Cross Media Marketing Corp.; Aames Financial; Worldcom; Siebel Systems; junk bonds issued by Marvel III Holdings; and various unspecified mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$750,000.00, plus the costs and disbursements of this action, including attorneys' fees; punitive damages in the amount of \$1,000,000.00; forum and hearing costs and expenses; and such other and further relief as the Arbitration Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, and the testimony and evidence presented at the hearing and post hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. On the second claim for breach of fiduciary duty, Respondents are jointly and severally liable for and shall pay Claimants compensatory damages in the amount of \$64,000.00 plus interest at the rate of 9% per annum from July 1, 2000 until the date the award is paid.
2. The causes of action for negligence, unsuitability, fraud, and churning are denied in their entirety.
3. 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	= \$500.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, Adolph Komorsky Investments is a party.

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:

September 16-18, 2003, adjournment by Respondents	= \$1,200.00
Respondent Adolph Komorsky Investment's share	= \$400.00
Respondent Adolph's share	= \$400.00
Respondent Komorsky's share	= \$400.00

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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: September 9, 2003 1 session	

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: April 3, 2003 1 session	

Eight (8) Hearing sessions @ \$1,200.00	= \$ 9,600.00
Hearing Dates:	
March 15, 2004	2 sessions
March 17, 2004	2 sessions
March 18, 2004	2 sessions
July 12, 2004	2 sessions

Total Forum Fees	= \$11,250.00
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1. The Panel has assessed \$5,625.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$5,625.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$5,625.00

Total Fees	= \$6,125.00
<u>Less payments</u>	<u>= \$1,700.00</u>
Balance Due NASD Dispute Resolution	= \$4,425.00

2. Respondent Adolph Komorsky Investments is solely liable for:

Member Fees	= \$8,550.00
<u>Adjournment Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$8,950.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$8,950.00

3. Respondent Adolph is solely liable for:

<u>Adjournment Fee</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 400.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 400.00

4. Respondent Komorsky is solely liable for:

<u>Adjournment Fee</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 400.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 400.00

5. Respondents Adolph Komorsky Investments, Adolph, and Komorsky are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$5,625.00</u>
Total Fees	= \$5,625.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$5,625.00

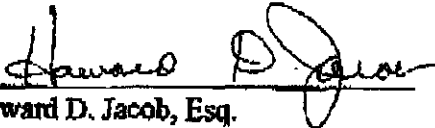
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Howard D. Jacob, Esq. - Public Arbitrator, Presiding Chairperson
Barbara M. Kislak, Esq. - Public Arbitrator
Margarita Echevarria, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.



Howard D. Jacob, Esq.
Public Arbitrator, Presiding Chairperson

8/25/04
Signature Date

Margarita Echevarria, Esq.
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Barbara M. Kislak, Esq.
Public Arbitrator

Signature Date

August 27, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

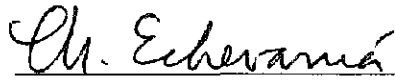
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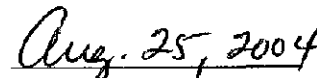
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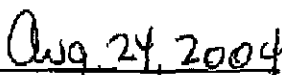
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