

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Alfons Hoglebe

and

Case Number: 02-06287
Hearing Site: Troy, Michigan

Names of Respondents

AXA Advisors, LLC
The Equitable Life Assurance Society of
the United States, and Andrew R. Nestor

NATURE OF DISPUTE

Customer v. Members and Associated Person

REPRESENTATION OF PARTIES

Alfons Hoglebe ("Claimant") was represented by Anthony V. Trogan, Esq., West Bloomfield, Michigan.

AXA Advisors, LLC ("AXA") and The Equitable Life Assurance Society of the United States ("Equitable"), hereinafter referred to as "Respondents," were represented by Eileen Stassa, Esq., AXA Advisors, LLC, New York, New York.

Andrew R. Nestor ("Nestor") was represented by Samuel E. Cohen, Esq., and Andrew W. Davitt, Esq., Marshall Dennehey, Warner, Coleman and Goggin, Philadelphia, Pennsylvania.

CASE INFORMATION

The Statement of Claim was filed on or about October 21, 2002. The Submission Agreement of Claimant Alfons Hoglebe was signed on or about October 11, 2002.

Statement of Answer was filed jointly by Respondents AXA and Equitable on or about December 18, 2002. The Submission Agreement of Respondent AXA Advisors, LLC was signed on or about December 18, 2002. The Submission Agreement of Respondent Equitable was signed on or about December 18, 2002.

Motion for a More Specific Statement of Claim, Preliminary Answer, Motion to Dismiss, and Affirmative Defenses was filed by Respondent Andrew R. Nestor on or about January 3, 2003. The Submission Agreement of Respondent Andrew R. Nestor was signed on or about January 10, 2003.

Claimant filed a Response to Respondent Nestor's Motions on or about January 16, 2003.

On or about December 23, 2003, Respondent Nestor filed a Motion to Dismiss due to Bankruptcy Discharge.

CASE SUMMARY

Claimant asserted the following legal theories: breach of contract, common law fraud, conspiracy, negligence, malpractice, breach of fiduciary duty, and breach of Michigan securities law. The causes of action relate to Respondents' alleged mismanagement of Claimant's account, including the recommendation and purchase of two variable annuities, which Claimant asserted was in contravention of his "conservative/moderate" risk profile.

Unless specifically admitted in their Answer, Respondents AXA and Equitable denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim and all claims therein fail to state a claim upon which relief can be granted, the Statement of Claim and all claims therein are barred by reason of Claimant's negligence and contributory negligence, and the Statement of Claim and all claims therein are barred by Claimant's ratification of the actions complained of therein; and the Statement of Claim and all claims therein are barred by the doctrines of waiver, estoppel, laches and release.

Unless specifically admitted in his Answer, Respondent Nestor denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, any alleged losses which may have occurred were the direct result of conditions and other factors beyond Respondent's control, Respondent made no misrepresentations or omissions of material fact upon which Claimant relied to his detriment, and Claimant's claims are barred, in whole or in part, by the applicable statutes of limitations and equitable principles of law.

RELIEF REQUESTED

Claimant requested an award in the amount of out-of-pocket losses of \$82,000.00, plus interest, costs, attorney fees, exemplary and punitive damages, additional damages as allowed by the Panel, and rescission.

Respondents requested that the claims asserted against them be denied in their entirety.

Respondent Nestor requested that the claims asserted against him be dismissed and that his CRD be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

The Panel denied Respondent Nestor's Motion for More Specific Statement of Claim and Motion to Dismiss.

Respondent Andrew R. Nestor filed for Chapter 7 Bankruptcy in United States Bankruptcy Court, Eastern District of Michigan, on or about May 12, 2003. The Court entered the Discharge of Debtor on August 7, 2003.

Samuel Cohen appeared at hearing on behalf of Respondent Andrew Nestor and moved to Dismiss due to Bankruptcy Discharge, which Motion was filed originally on or about December 23, 2003. At hearing, the Panel granted Respondent Nestor's Motion to Dismiss.

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.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Andrew R. Nestor's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Nestor must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) That any relief not specifically enumerated, including exemplary and 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 = \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms are AXA Advisors, LLC, and The Equitable Life Assurance Society of the United States.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,700.00

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

One (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00

Pre-hearing conference: May 30, 2003 1 session

Five (5) Hearing sessions x \$750.00 = \$3,750.00

Hearing Dates: January 6, 2004 2 sessions

January 7, 2004 2 sessions

January 8, 2004 1 session

Total Forum Fees = \$4,500.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Alfons Hogrebe.

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to AXA Advisors, LLC and The Equitable Life Assurance Society of the United States.

Fee Summary

Claimant, Alfons Hogrebe, is liable for:

Initial Filing Fee = \$ 225.00

Forum Fees = \$2,250.00

Total Fees = \$2,475.00

Less payments = \$ 975.00

Balance Due NASD Dispute Resolution = \$1,500.00

Respondent, AXA Advisors, LLC, is liable for:

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

Respondent, The Equitable Life Assurance Society of the United States, is liable for:

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

Respondents, AXA Advisors, LLC and The Equitable Life Assurance Society of the United States, are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,250.00
<u>Total Fees</u>	= \$2,250.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$2,250.00

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

ARBITRATION PANEL

David E. Nims, III, Esq. - Public, Presiding Chair
Carole M. Crosby, Esq. - Public Arbitrator
Raymond W. Henney, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David E. Nims, III, Esq.
David E. Nims, III, Esq.
Public Arbitrator, Presiding Chair

01/13/04
Signature Date

/s/ Carole M. Crosby, Esq.
Carole M. Crosby, Esq.
Public Arbitrator

01/12/04
Signature Date

/s/ Raymond W. Henney, Esq.
Raymond W. Henney, Esq.
Non-Public Arbitrator

01/15/04
Signature Date

01/15/04
Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 02-06287
 Award Page 5 of 6

Respondent, AXA Advisors, LLC, 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

Respondent, The Equitable Life Assurance Society of the United States, is liable for:

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

Respondents, AXA Advisors, LLC and The Equitable Life Assurance Society of the United States, are jointly and severally liable for:

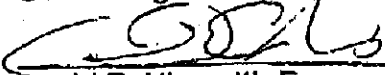
Forum Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,250.00

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ARBITRATION PANEL

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 Carole M. Crosby, Esq. - Public Arbitrator
 Raymond W. Henney, Esq. - Non-Public Arbitrator

Concurring Arbitrators:


 David E. Nims, III, Esq.
 Public Arbitrator, Presiding Chair

1/13/04
 Signature Date

Carole M. Crosby, Esq.
 Public Arbitrator

Signature Date

Raymond W. Henney, Esq.
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 03-06287
 Award Page 4 of 5

Respondent, AXA Advisors, LLC, 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

Respondent, The Equitable Life Assurance Society of the United States, is liable for:

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

Respondents, AXA Advisors, LLC and The Equitable Life Assurance Society of the United States, are jointly and severally liable for:

Forum Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,250.00

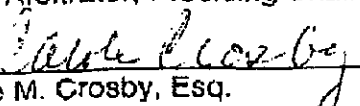
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ARBITRATION PANEL

David E. Nims, III, Esq. - Public, Presiding Chair
 Carole M. Crosby, Esq. - Public Arbitrator
 Raymond W. Henney, Esq. - Non-Public Arbitrator

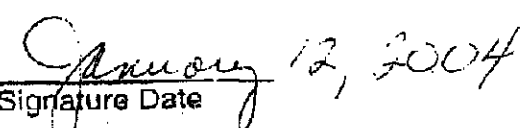
Concurring Arbitrators:

David E. Nims, III, Esq.
 Public Arbitrator, Presiding Chair


 Carole M. Crosby, Esq.
 Public Arbitrator

Raymond W. Henney, Esq.
 Non-Public Arbitrator

Signature Date


 Signature Date January 12, 2004

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 02-06237
 Award Page 5 of 5

Respondent, AXA Advisors, LLC, 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

Respondent, The Equitable Life Assurance Society of the United States, is liable for:

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

Respondents, AXA Advisors, LLC and The Equitable Life Assurance Society of the United States, are jointly and severally liable for:

Forum Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,250.00

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

ARBITRATION PANEL

David E. Nims, III, Esq. - Public, Presiding Chair
 Carole M. Crosby, Esq. - Public Arbitrator
 Raymond W. Henney, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

 David E. Nims, III, Esq.
 Public Arbitrator, Presiding Chair

 Signature Date

 Carole M. Crosby, Esq.
 Public Arbitrator

 Signature Date


 Raymond W. Henney, Esq.
 Non-Public Arbitrator

1/15/04
 Signature Date

 Date of Service (For NASD office use only)