

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Daryle B. Hall, Sr.

Case Number: 02-06445

Names of the Respondents
Charles E. Headley and
CUNA Brokerage Services, Inc.

Hearing Site: Pittsburgh, PA

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

REPRESENTATION OF PARTIES

Claimant, Daryle B. Hall, Sr., hereinafter referred to as "Claimant", was represented at the hearing by Arnold Y. Steinberg, Esq., Arnold Y. Steinberg, P.C., Pittsburgh, Pennsylvania.

Respondents, Charles E. Headley ("Headley") and CUNA Brokerage Services, Inc. ("CUNA"), hereinafter collectively referred to as "Respondents", were represented at the hearing by Gregory J. Schaefer, Esq., Hinshaw & Culberston, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about October 28, 2002.

Claimant signed the Uniform Submission Agreement on October 21, 2002.

Statement of Answer filed by Respondents on March 24, 2003.

A representative of Respondent CUNA signed the Uniform Submission Agreement on March 21, 2003.

Claimant filed his Objection to and Motion to Strike Respondents' Rule 10321 Disclosure Statement on January 16, 2004.

CASE SUMMARY

In his Statement of Claim, Claimant alleges that in the months of February or March of 2000 he visited Headley's office, an employee of CUNY, for the purpose of investing his 401(K) into another type of IRA because he was planning to retire in October of 2000. Claimant states that he had over \$82,000 in the 401(k) with Boilermakers Union and approximately \$5,000 with the International Boilermakers. Claimant further alleges that Headley suggested that he open a Roth IRA account with maximum deposits of \$2,000 per year, a Rollover account, and a brokerage account with an initial deposit of \$15,000. Claimant further states that in 2001, after he retired,

he deposited another \$2,000 into the Roth account, \$500 into the Brokerage account, and he rolled-over \$10,000 from his Boilermakers. Claimant maintains that he made several telephone calls to Headley and visited his office inquiring about his three (3) accounts: the Rollover account, the Roth account, and the Brokerage account. Claimant indicates that Headley advised him not to worry, and that the market goes up and down. Claimant asserted that as of October 31, 2002 he had lost over \$75,397.71 and that this was not good for his retirement.

Claimant alleges that when he first visited Headley's office in February or March of 2000, he knew nothing about large investments and that he later had concerns about his accounts. He further alleges that he received a letter from CUNY indicating that if he closed the accounts, he would "eat" his losses and they would penalize him. Claimant further alleges that his money should not have been put into high-risk investments and that Headley knew he was retiring. He states that the dispute arose in approximately April of 2002.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; Respondents specifically deny that Claimant has suffered any damage as a result of the claims alleged in the Statement of Claim, as Claimant still maintains all of his accounts with CUNY, and that no change has been made to those investments except depositing addition funds since the accounts were opened; Statement of Claim is barred because investment recommendations suitable based on information provided by Claimant; Statement of Claim barred due to lack of causation in that any damage to Claimant was the result of his won actions; Statement of Claim is barred because Respondents' fully disclosed the nature of, and the risks associated with, investments in securities; Statement of Claim is barred because the investments were suitable; and, Statement of Claim is barred by the doctrine of assumption of the risk.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 113,500.00
Punitive Damages	\$ 20,000.00
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed with prejudice and that Claimant take nothing thereby, that Respondents be awarded reasonable costs as provided by law, and that the arbitrators award such other and further relief as is equitable and just.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Headley did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered

the claim, appeared and testified at the hearing, is bound by the determination of the Arbitration Panel (the "Panel") on all issues submitted.

Claimant withdrew his Objection to and Motion to Strike Respondents' Rule 10321 Disclosure Statement at the hearing on the merits.

Claimant moved to amend the Statement of Claim to include failure to supervise, negligence, and violations of the Pennsylvania Securities Act, to the extent the same were not pleaded in the original Statement of Claim. Respondents moved for a directed verdict as to Claimant's request to amend the Statement of Claim. The Panel denied the parties' motions.

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:

1. Respondent CUNY is liable to and shall pay to Claimant the sum of twenty-eight thousand one hundred sixty-four dollars and sixty-eight cents (\$28,164.68) in compensatory damages;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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	= \$ 300.00
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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 person at the time of the events giving rise to the dispute. Accordingly, CUNY is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 @ \$ 1,125.00 = \$ 1,125.00
Pre-hearing conference: October 1, 2003 1 session

Two (2) Hearing sessions @ \$ 1,125.00 = \$ 2,250.00
Hearing Date: January 21, 2004 2 sessions

Total Forum Fees = \$ 3,375.00

1. The Panel has assessed \$1,687.50 of the forum fees to Claimant.
2. The Panel has assessed \$1,687.50 of the forum fees to Respondent CUNY.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 1,687.50</u>
Total Fees	= \$ 1,987.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent CUNY is assessed and shall pay:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 1,687.50</u>
Total Fees	= \$ 6,887.50
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

NASD Dispute Resolution

Arbitration No. 02-06443

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ARBITRATION PANEL

Robert Warren Goehring, Sr., Esq.

Jay H. Feldstein, Esq.

Donald A. Olszewski

Public Arbitrator, Presiding Chairperson

Public Arbitrator, Panelist

Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Robert Vance Loring, Sr.

Robert Warren Goehring, Sr., Esq.
Public Arbitrator, Presiding Chairperson

2-13-2004

Signature Date

Jay H. Feldstein, Esq.
Public Arbitrator, Panelist

Signature Date

Donald A. Olszewski
Non-Public Arbitrator, Panelist

Signature Date

February 17, 2004

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

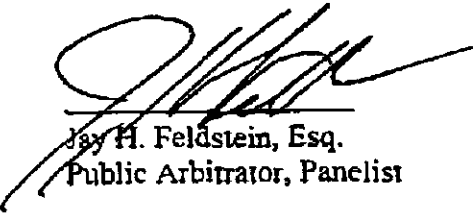
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Robert Warren Goehring, Sr., Esq.	-	Public Arbitrator, Presiding Chairperson
Jay H. Feldstein, Esq.	-	Public Arbitrator, Panelist
Donald A. Olszewski	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Robert Warren Goehring, Sr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Jay H. Feldstein, Esq.
Public Arbitrator, Panelist

2/16/04
Signature Date

Donald A. Olszewski
Non-Public Arbitrator, Panelist

Signature Date

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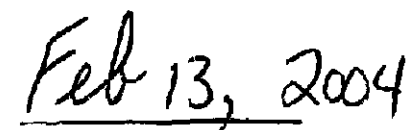
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