

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

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In the Matter of the Arbitration Between

Names of Claimants

Robert Graves and Ellen R. Graves

and

Case Number: 02-06985

Hearing Site: Southfield, Michigan

Names of Respondents

United Planners' Financial Services  
and Charlie W. Sheets

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**NATURE OF DISPUTE**

Customers v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Robert Graves and Ellen R. Graves ("Claimants") were represented by Joel H. Kaufman, Esq., Farmington Hills, Michigan.

United Planners' Financial Services ("UPFS") and Charlie W. Sheets ("Sheets"), hereinafter referred to as "Respondents," were represented by Edmund M. Brady, Esq., Garan Lucow and Miller, P.C., Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about November 19, 2002. The Submission Agreement of Claimants Robert Graves and Ellen R. Graves was signed on or about November 2, 2002.

Statement of Answer was filed jointly by Respondents UPFS and Sheets on or about March 20, 2003. The Submission Agreement of Respondent Sheets was signed on or about March 14, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: broker and firm misconduct including failure to diversify by concentrating all of Claimants' money in one fund, which was unsuitable and advising Claimants "to hold and ride out any market decline" and failure to supervise, as well as breach of contract, negligence/misrepresentation, breach of fiduciary duty, violation of the Michigan Consumer Protection Act, fraud, and common law fraud. The causes of action relate to Respondents recommendation and Claimants' investment in Putnam High Yield Trust.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' Statement of Claim fails to state a claim upon which relief can be granted, Respondents and their actions and/or omissions, if any, were not the proximate cause of any damages allegedly sustained by Claimants, Respondents exercised reasonable judgment as to Claimants, and Claimants' claims are barred under the equitable doctrines of ratification, waiver, and/or estoppel.

#### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$111,008.34, plus exemplary damages, interest, costs, attorney fees, rescission, and additional damages as allowed by the Panel.

Respondents requested that the claims asserted against them be denied in their entirety and other unspecified defenses.

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

Respondent United Planners' Financial Services did not file with the 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 submitted testimony at the hearing is 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 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.) The Panel finds Respondents United Planners' Financial Services and Charlie W. Sheets liable for violation of the suitability rules, however the Panel finds no damages;
- 2.) The Panel finds no cause of action with regard to all other claims;
- 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 exemplary 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 = \$ 300.00

#### **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 United Planners' Financial Services.

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

#### **Adjournment Fees**

Adjournments requested during these proceedings:

November 12-13, 2003, adjournment by Respondents = \$ 1,125.00

#### **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 \$1,125.00 = \$ 1,125.00  
Pre-hearing conference: June 19, 2003 1 session

Five (5) Hearing sessions x \$1,125.00 = \$ 5,625.00  
Hearing Dates: November 11, 2003 1 session  
December 15, 2003 2 sessions  
December 16, 2003 2 sessions

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Total Forum Fees = \$ 6,750.00

The Arbitration Panel has assessed \$6,750.00 of the forum fees jointly and severally to United Planners' Financial Services and Charlie W. Sheets.

### Fee Summary

Claimants, Robert Graves and Ellen R. Graves, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 0.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

Respondent, United Planners' Financial Services, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, United Planners' Financial Services and Charlie W. Sheets are jointly and severally liable for:

Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 6,750.00
Total Fees	= \$ 7,875.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,875.00

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

### ARBITRATION PANEL

James C. Steffl, Esq. - Public Arbitrator, Presiding Chair

Paul M. Stoychoff, Esq. - Public Arbitrator

Peter S. Viviano - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James C. Steffl, Esq.,  
James C. Steffl, Esq.  
Public Arbitrator, Presiding Chair

01/09/04  
Signature Date

/s/ Paul M. Stoychoff, Esq.  
Paul M. Stoychoff, Esq.  
Public Arbitrator

01/12/04  
Signature Date

/s/ Peter S. Viviano  
Peter S. Viviano  
Non-Public Arbitrator

01/12/04  
Signature Date

01/13/04  
Date of Service (For NASD office use only)

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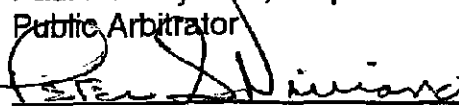
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Public Arbitrator, Presiding Chair

Signature Date

Paul M. Stoychoff, Esq.  
Public Arbitrator

Signature Date

  
Peter S. Viviano  
Non-Public Arbitrator

12 Jan 2004  
Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution  
 Arbitration No. 02-06985  
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 Public Arbitrator, Presiding Chair

  
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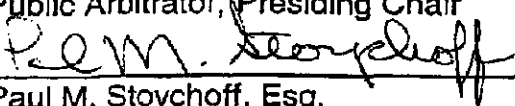
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