

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Elaine Miller

Case Number: 02-06986

Name of the Respondents
Scott D. Ricketts
Financial Marketplace Group, LLC

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Public Customer v. Associated Person and Non-Member Firm

REPRESENTATION OF PARTIES

Claimant Elaine Miller, hereinafter referred to as "Claimant": John E. Dees, Jr., Esq. of Dallas, Texas.

Respondents Scott D. Ricketts ("Ricketts") and Financial Marketplace Group LLC ("Financial Marketplace"), hereinafter collectively referred to as "Respondents": Scott D. Ricketts of Richardson, Texas.

CASE INFORMATION

Statement of Claim filed: November 19, 2002.

Claimant signed the Uniform Submission Agreement: November 12, 2002.

Joint Statement of Answer filed by Respondents: February 6, 2003.

Respondent Ricketts signed the Uniform Submission Agreement on behalf of Financial Marketplace on: February 5, 2003.

Respondent Ricketts did not file an executed submission agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; breach of fiduciary duty; misrepresentation; and, violation of the Texas Consumer Protection—Deceptive Trade Practices Act. These causes of action related to Respondents actions in allegedly placing what were once highly diversified accounts into accounts primarily invested in stocks, including securities and

options that were extremely risky and volatile.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted that all transactions were made with Claimant's full knowledge of the risks and participation in the selection of the investments sold and purchased.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 275,000.00
Treble Damages (pursuant to the Texas Consumer Protection—Deceptive Trade Practices Act.	\$ 550,000.00
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	Unspecified

Respondents requested that the claims be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondents Scott D. Ricketts and Financial Marketplace has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Scott D. Ricketts 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 is bound by the determination of the Panel on all issues submitted.

At hearing, only two of the three panel members appeared for the hearing. The parties present at the hearing agreed to continue with the two-member panel.

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. Respondents Scott D. Ricketts and Financial Marketplace Group, LLC are jointly and severally liable for and shall pay to the Claimant, Elaine Miller, the sum of \$213,500.00 as compensatory damages, plus interest at the rate of 6% per annum accruing from November 5, 2003 until the sum is paid in full;

2. In addition, Respondents Scott D. Ricketts and Financial Marketplace Group, LLC are jointly and severally liable for and shall pay to the Claimant, Elaine Miller, the sum of \$25,000.00 as attorneys' fees. In deciding to award attorneys' fees, the Panel considered the arguments of counsel and Texas statute, and determined that authority existed for an award of attorneys' fees to the Claimant;
3. Furthermore, Respondents Scott D. Ricketts and Financial Marketplace Group, LLC are jointly and severally liable for and shall pay to the Claimant, Elaine Miller, the sum of \$1,700.00 as costs;
4. Claimant's claims under the Texas Deceptive Trade Practices Act are dismissed in their entirety;
5. The parties shall bear their own remaining costs of arbitration, except for those sums specifically enumerated in this award; and,
6. Any and all relief not specifically addressed herein, including treble 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	= \$ 375.00
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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, HD Vest Investment Services is the Respondent's firm and the following member fee are assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: September 15, 2003 1 session	

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00
Pre-hearing conference: July 7, 2003 1 session

One (1) Hearing sessions @ \$1,200.00 = \$ 1,200.00
Hearing Date: November 4, 2003 1 session

Total Forum Fees = \$ 2,850.00

The Panel has assessed \$1,200.00 of the forum fees to Claimant Elaine Miller and \$1,650.00 of the forum fees jointly and severally to Respondents Scott D. Ricketts and Financial Marketplace Group, LLC.

FEE SUMMARY

Claimant Elaine Miller is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,575.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

HD Vest Investment Services is solely liable for:

Member Fees	= \$ 7,000.00
Less payments	= \$ 6,450.00
Balance Due NASD Dispute Resolution	= \$ 550.00

Respondents Scott D. Ricketts and Financial Marketplace Group, LLC are jointly and severally liable for:

Forum Fees	= \$ 1,650.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,650.00

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

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ARBITRATION PANEL

Robert L. Chisolm - Public Arbitrator, Presiding Chairperson

Daniel C. Dooley, CPA - Non-Public Arbitrator

Concurring Arbitrators' Signatures
Robert L. Chisolm

Public Arbitrator, Presiding Chairperson

2/6/04
Signature Date
Daniel C. Dooley, CPA
Non-Public Arbitrator
Signature Date2/9/04 
Date of Service (For NASD Dispute Resolution office use only)

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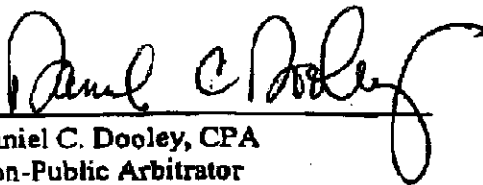
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Concurring Arbitrators' Signatures

Robert L. Chisolm
Public Arbitrator, Presiding Chairperson

Signature Date



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