
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Patricia L. Combs

Case Number: 02-07607

Name of the Respondent
American Express Financial Advisors, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Patricia L. Combs, hereinafter referred to as "Claimant": William J. Schifino, Esq. and Brenda M. Combs, Esq., Williams Schifino Mangione & Steady, P.A., Tampa, FL.

For American Express Financial Advisors, Inc. ("AMEX"), hereinafter referred to as "Respondent": David Hines, Esq., Nash, Edgerton & Irwin, Minneapolis, MN.

CASE INFORMATION

Statement of Claim filed on or about: December 17, 2002.

Claimant signed, but did not date, the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: February 17, 2003.

Respondent signed the Uniform Submission Agreement: January 7, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Chapter 517, Florida Statutes; breach of fiduciary duty; negligence; negligent supervision; and, common law fraud. The causes of action relate to the purchase of unspecified securities products in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$215,000.00, pre- and post-award interest, punitive damages, attorneys' fees, costs, and such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested dismissal of the Statement of Claim and that costs be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

At the beginning of the second day of the evidentiary hearing, Arbitrator Frank Brenner withdrew from the Panel. The parties agreed to proceed with the two remaining arbitrators.

The parties 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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claims of negligence and negligent supervision and shall pay to Claimant compensatory damages in the sum of \$75,000.00, pre-judgment interest specifically excluded.

Claimant's claims based upon violations of Chapter 517, Florida Statutes, breach of fiduciary duty, and common law fraud are dismissed, with prejudice.

Respondent is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's claims for punitive damages and attorneys' fees, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

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 the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: August 18, 2003 1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: June 1, 2004 2 sessions	
June 2, 2004 2 sessions	
June 3, 2004 2 sessions	
Total Forum Fees	= \$7,875.00

The Panel has assessed the total forum fees of \$7,875.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 7,875.00
Total Fees	= \$13,075.00

Balance Due NASD Dispute Resolution	= \$ 7,875.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Terry L. Kors - **Non-Public Arbitrator**

Concurring Arbitrators' Signatures

Public Arbitrator, Presiding Chairperson

Signature	Date
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Non-Public Arbitrator

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

NASD Dispute Resolution

Arbitration No. 02-07607

Award Page 4 of 4Less payments = \$ 3,200.00Balance 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

Dolores Alfano

-

Public Arbitrator, Presiding Chairperson

Terry L. Kors

-

Non-Public Arbitrator

Concurring Arbitrators' SignaturesDolores Alfano

Dolores Alfano

Public Arbitrator, Presiding Chairperson

June 18, 2004

Signature Date

Terry L. Kors

Terry L. Kors

Non-Public Arbitrator

Signature DateDate of Service (For NASD Dispute Resolution office use only)

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P. 5

NASD Dispute Resolution

Arbitration No. 02-07607

Award Page 4 of 4

<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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

Dolores Alfano	-	Public Arbitrator, Presiding Chairperson
Terry L. Kors	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Dolores Alfano
Public Arbitrator, Presiding Chairperson

Signature Date



Terry L. Kors
Non-Public Arbitrator

06 18 04
Signature Date

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