

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Phyllis Janke

v.

02-07762

Minneapolis, Minnesota

Respondents

U.S. Bancorp Investments, Inc.,
U.S. Bancorp Piper Jaffray, Inc.,
a/k/a Piper Jaffray & Company,
US Bank Private Financial Services,
Wells Fargo Brokerage Services, L.L.C.,
Wells Fargo Intuitional Securities, L.L.C.,
and Wells Fargo Bank Minnesota, NA

Nature of Dispute: Customer v. Members and Non-Members

REPRESENTATION OF PARTIES

Phyllis Janke ("Claimant") was represented by Christopher J. Bebel, Esq., of Shepherd Smith & Bebel, P.C., Houston, Texas until his Notice of Withdrawal filed on or about February 4, 2004, after which Claimant appeared pro se.

Respondents U.S. Bancorp Investments, Inc. ("USBII"), U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company ("USBPJI"), and US Bank Private Financial Services ("USBPFS") were represented by Steven M. Phillips, Esq., of Anthony Ostlund & Baer, P.A., Minneapolis, Minnesota.

Respondents Wells Fargo Brokerage Services, L.L.C. ("WFBS") Wells Fargo Intuitional Securities, L.L.C. ("WFIS") and Wells Fargo Bank Minnesota, NA ("WFBM") were represented by Thomas J. Boyd, Esq., of Winthrop & Weinstine, P.A., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about December 24, 2002. Submission Agreement of Claimant was signed on or about October 7, 2002.

No Statements of Answer or Submission Agreements were filed by Respondents U.S. Bancorp Investments, Inc., U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, US Bank Private Financial Services, Wells Fargo Brokerage Services, L.L.C., Wells Fargo Intuitional Securities, L.L.C. and Wells Fargo Bank Minnesota, NA.

Respondents USBPJI and USBII filed a Motion to Dismiss on or about February 26, 2003. Claimant filed a Response to Respondents USBPJI's and USBII's Motion to Dismiss on or about March 14, 2003.

Respondents WFBS and WFIS filed a Motion to Dismiss on or about February 26, 2003. Claimant filed a Response to Respondents WFBS's and WFIS's Motion to Dismiss on or about March 14, 2003.

Claimant filed a Motion for Default Judgment on or about May 27, 2003. Respondents USBPJI and USBII filed a Response to Claimant's Motion for Default Judgment on or about May 29, 2003. Respondents WFBS and WFIS filed a Response to Claimant's Motion for Default Judgment on or about May 30, 2003.

Claimant filed a Request for Withdrawal Without Prejudice on or about August 13, 2003. Respondents USBPJI and USBII filed a Response to Claimant's Request for Withdrawal Without Prejudice on or about August 14, 2003. Respondents WFBS and WFIS filed a Response to Claimant's Request for Withdrawal Without Prejudice on or about August 14, 2003.

CASE SUMMARY

Claimant asserted causes of action including the following: breach of contract, violation of consumer protection and deceptive trade practices, violation of federal securities laws, violation of Minnesota state securities laws, violation of Minn. Stat. 80A.23, and secondary liability. The causes of action related to Claimant's allegation that Respondent US Bank Private Financial Services did not consult her as to her financial objectives and subsequently sold off her diversified portfolio, consisting of government securities, corporate bonds, cash and preferred to stock, and reinvested her in a portfolio consisting of various "growth stocks." Claimant asserted that after losses were incurred, Claimant then moved her account to Wells Fargo Bank. According to Claimant, Wells Fargo Bank continued this allegedly inappropriate investment strategy and sold off her holdings in SuperValu common stock, despite her specific instructions not to sell. Claimant further alleged that Respondents USBPJI, USBII, WFBS and WFIS were in control of the actions of US Bank Private Financial Services and Wells Fargo Bank, and as such, were responsible for acts asserted under the doctrine of respondeat superior.

Respondents USBPJI and USBII, in their Motion to Dismiss, denied the allegations set forth in the Statement of Claim and asserted the following: Claimant has identified no dispute, claim or controversy between USBPJI and USBII which arises out of their business or in connection with the activities of one of their associated persons; Claimant has not identified a written arbitration agreement between Claimant and USBPJI or USBII; and Claimant has failed to establish any matter legitimately in dispute in this proceeding where Claimant was a "customer" of USBPJI or USBII.

Respondents WFBS and WFIS, in their Motion to Dismiss, denied the allegations set forth in the Statement of Claim and asserted the following: WFBS and WFIS are not parties to any arbitration agreement and have not agreed voluntarily engage in arbitration; and as such Claimant cannot be permitted to unlawfully coerce Respondents to engage in arbitration by improperly naming WFBS and WFIS as parties to this arbitration.

RELIEF REQUESTED

Claimant requested an award in the amount of \$3,000,000 in compensatory damages. In addition Claimant requested, punitive damages, interest, costs, attorney's fees and any other relief the Panel deemed just and equitable.

Respondents USBPJI and USBII requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees.

Respondents WFBS and WFIS requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents U.S. Bancorp Investments, Inc., U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, Wells Fargo Brokerage Services, L.L.C., and Wells Fargo Institutional Securities, L.L.C., did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements, but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

Respondents US Bank Private Financial Services and Wells Fargo Bank Minnesota, NA are neither NASD member firms nor associated persons of NASD member firms. NASD Dispute Resolution did not receive a contract to arbitrate or a voluntary submission from US Bank Private Financial Services or Wells Fargo Bank Minnesota, NA. Pursuant to the NASD Code of Arbitration Procedure, NASD does not have jurisdiction over these parties. Therefore, the Panel did not adjudicate any claims asserted against US Bank Private Financial Services and Wells Fargo Bank Minnesota, NA.

The Panel entered an Order on or about August 21, 2003, dismissing this claim without prejudice. The Panel also ordered that Claimant be responsible for all costs and one-half of Respondents' attorney's fees. The Panel ordered that the parties submit affidavits regarding their respective costs and attorneys' fees in this case. After deliberation, the Panel hereby issues the following clarification of its August 21, 2003, Order:

Pursuant to Rule 10333 of the NASD Code of Arbitration, "each member that is named as a party to an arbitration proceeding, whether in a Claim, Counterclaim, Cross-Claim or Third-Party Claim, shall be assessed member fees including a surcharge, pre-hearing

processing fee and hearing processing fee, the member fees shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code." Therefore, the Panel cannot address the reallocation of costs as to any member surcharge or processing fee issued in this case.

AWARD

After considering the pleadings, affidavits, and the testimony at the pre-hearing conferences, 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 hereby dismissed without prejudice in their entirety;
2. Claimant, Phyllis Janke, is liable for and shall pay to Respondents, U.S. Bancorp Investments, Inc., and U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, the sum of Two Thousand One Hundred Forty Eight Dollars and Eighty-Six Cents (\$2,148.86) in attorney's fees. The Panel has determined that based upon the pleadings, affidavits and oral arguments made on behalf of Respondents that an Award reflecting attorney's fees is warranted in this case;
3. Claimant, Phyllis Janke, is liable for and shall pay to Respondents, Wells Fargo Brokerage Services, L.L.C., and Wells Fargo Intuitional Securities, L.L.C., the sum of Five Thousand Six Hundred Twenty Seven Dollars and Fifty Cents (\$5,627.50) in attorney's fees. The Panel has determined that based upon the pleadings, affidavits and oral arguments made on behalf of Respondents that an Award reflecting attorney's fees is warranted in this case;
4. Claimant, Phyllis Janke, is liable for and shall pay to Respondents, U.S. Bancorp Investments, Inc., and U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, the sum of Four Thousand Two Hundred Ninety Seven Dollars and Twenty-Four Cents (\$4,297.24) in arbitration costs. The Panel has determined that based upon the pleadings, affidavits and oral arguments made on behalf of Respondents that an Award reflecting costs is warranted in this arbitration case;
5. Claimant, Phyllis Janke, is liable for and shall pay to Respondents, Wells Fargo Brokerage Services, L.L.C., and Wells Fargo Intuitional Securities, L.L.C., the sum of Two Hundred Fifty Four Dollars and Ninety-Four Cents (\$254.94) in arbitration costs. The Panel has determined that based upon the pleadings, affidavits and oral arguments made on behalf of Respondents that an Award reflecting costs is warranted in this case; and
6. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 500

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 firms are U.S. Bancorp Investments, Inc., U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, Wells Fargo Brokerage Services, L.L.C., and Wells Fargo Institutional Securities, L.L.C.

Member surcharge = \$ 2,800
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 5,000

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

Three (3) Pre-hearing sessions with Panel x \$ 1,200 = \$ 3,600

Pre-hearing conference:	06/05/2003	1 session
	07/31/2003	1 session
	08/15/2003	1 session

Total Forum Fees = \$ 3,600

The Arbitration Panel has assessed \$ 3,600 of the forum fees to Phyllis Janke

Fee Summary

Claimant, Phyllis Janke, is liable for:

Initial Filing Fee	= \$ 500
Forum Fees	= \$ 3,600
Total Fees	= \$ 4,100
Less payments	= \$ 1,700
Balance Due NASD Dispute Resolution	= \$ 2,400

Respondent, U.S. Bancorp Investments, Inc., is liable for:

Member Fees	= \$ 8,550
Total Fees	= \$ 8,550
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondent, U.S. Bancorp Piper Jaffray, Inc., a/k/a Piper Jaffray & Company, is liable for:

Member Fees	= \$ 8,550
Total Fees	= \$ 8,550
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondent, Wells Fargo Brokerage Services, L.L.C., is liable for:

Member Fees	= \$ 8,550
Total Fees	= \$ 8,550
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondent, Wells Fargo Intuition Securities, L.L.C., is liable for:

Member Fees	= \$ 8,550
Total Fees	= \$ 8,550
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

John C. DeMoss, Esq. - Public Arbitrator, Presiding Chair
David F. Schmitz - Public Arbitrator
Edward C. Oliver- Non-Public Arbitrator

Concurring Arbitrators:

John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

Signature Date

David F. Schmitz
Public Arbitrator

Signature Date

Arbitrator Concurring in Part, Dissenting in Part:

I concur as to the Dismissal, however, I dissent as to the Dismissal Without Prejudice

Edward C. Oliver
Non-Public Arbitrator

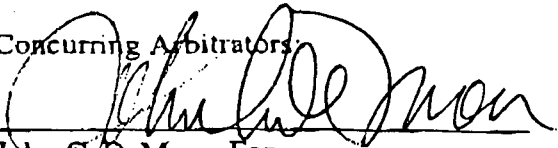
Signature Date

4/15/04
Date of Service (NASD use only)

ARBITRATION PANEL

John C. DeMoss, Esq. - Public Arbitrator, Presiding Chair
David F. Schmitz - Public Arbitrator
Edward C. Oliver- Non-Public Arbitrator

Concurring Arbitrators:



John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

4-14-04
Signature Date

David F. Schmitz
Public Arbitrator

Signature Date

Arbitrator Concurring in Part, Dissenting in Part:

I concur as to the Dismissal, however, I dissent as to the Dismissal Without Prejudice

Edward C. Oliver
Non-Public Arbitrator

Signature Date

4/15/04

Date of Service (NASD use only)

ARBITRATION PANEL

John C. DeMoss, Esq. - Public Arbitrator, Presiding Chair
David F. Schmitz - Public Arbitrator
Edward C. Oliver- Non-Public Arbitrator

Concurring Arbitrators:

John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

Signature Date



David F. Schmitz
Public Arbitrator

4/15/04

Signature Date

Arbitrator Concurring in Part, Dissenting in Part:

I concur as to the Dismissal, however, I dissent as to the Dismissal Without Prejudice

Edward C. Oliver
Non-Public Arbitrator

Signature Date

4/15/04

Date of Service (NASD use only)

ARBITRATION PANEL

John C. DeMoss, Esq. - Public Arbitrator, Presiding Chair
David F. Schmitz - Public Arbitrator
Edward C. Oliver - Non-Public Arbitrator

Concurring Arbitrators:

John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

Signature Date

David F. Schmitz
Public Arbitrator

Signature Date

Arbitrator Concurring in Part, Dissenting in Part:

I concur as to the Dismissal, however, I dissent as to the Dismissal Without Prejudice



Edward C. Oliver
Non-Public Arbitrator

4-14-04
Signature Date

4/5/04
Date of Service (NASD use only)