

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

James and Joanne Fisher

v.

02-07827
Omaha, Nebraska

Respondents

FFP Securities, Inc. and Randy L. Beltramea
d/b/a Beltramea Investment Management

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

James and Joanne Fisher ("**Claimants**") were represented by Thomas Wolle, Esq., Moyer & Bergman, P.L.C., Cedar Rapids, Iowa.

FFP Securities, Inc. ("**FFP Securities**") was represented by Brandon S. Reif, Esq., Edgerton & Weaver LLP, Hermosa Beach, California.

Randy L. Beltramea d/b/a Beltramea Investment Management ("**Beltramea**") did not appear at the hearing.

CASE INFORMATION

The Statement of Claim was filed on or about December 27, 2002. The Submission Agreements of Claimants James and Joanne Fisher were signed on or about December 17, 2002. The Amended Statement of Claim was filed on or about December 23, 2003. The Second Amended Statement of Claim was filed on or about April 5, 2004. Claimants' Response to the Motion for Severance of FFP Securities, Inc. and Randy Beltramea was filed on or about April 14, 2003.

A Statement of Answer was filed by Respondent FFP Securities, Inc. on or about February 24, 2004. Respondent FFP Securities, Inc. filed a Motion for an Order of Severance on or about March 27, 2003.

A Statement of Answer was filed by Respondent Randy L. Beltramea d/b/a Beltramea Investment Management on or about March 7, 2003. The Submission Agreement of Respondent Randy L. Beltramea d/b/a Beltramea Investment Management was signed on or about March 3, 2003.

Respondent Randy L. Beltramea d/b/a Beltramea Investment Management filed a Joinder to Respondent FFP Securities, Inc.'s Motion for an Order of Severance on or about April 10, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligent misrepresentation; negligence; sale of an unregistered security; Violation of 15 U.S.C. § 78j; Violation of Iowa Code § 502.502A; fraud; fraudulent misrepresentation and nondisclosure; negligent supervision and control; unsuitable investments; and unauthorized trading. Claimants alleged that Beltramea negligently and fraudulently induced them into purchasing shares of stock. The causes of action relate to the order execution of Enlighten Technologies, Inc. stock.

Respondent FFP Securities, Inc. denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: The Statement of Claim failed to state a claim for which relief may be granted and must, therefore, be dismissed; Claimants were fully advised of and understood the nature of the investments that they purchased, accordingly, Claimants are not entitled to any relief in this action; Claimants had full, complete, accurate and contemporaneous knowledge concerning their investments, and therefore, are precluded and estopped from any recovery in this action; Claimants expressly ordered, approved, participated in and ratified the acts and transactions of which they now complain; and, Claimants are barred from any recovery in this action under the doctrines of waiver, estoppel, ratification, in pari delicto and unclean hands.

Respondent Randy L. Beltramea d/b/a Beltramea Investment Management denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state a claim upon which relief can be granted; and Federal Securities statutes are not applicable.

RELIEF REQUESTED

Claimants requested an award in the amount of \$207,143.10 in compensatory damages, plus punitive damages, costs, interest and attorney's fees and such other relief the Panel deems equitable.

Respondent FFP Securities, Inc. requested that the claimants take nothing by way of their Statement of Claim and that FFP be afforded such other relief as the arbitrators deem just and proper.

Respondent Randy L. Beltramea d/b/a Beltramea Investment Management requested that the claims asserted against him be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

On April 28, 2003, NASD Dispute Resolution made a preliminary determination to deny Respondent FFP Securities, Inc.'s Motion for an Order of Severance pursuant to Rule 10314(D)(2) of the NASD Code of Arbitration Procedure.

On or about October 13, 2003, the Panel granted Respondents Motion for an Order of Severance and issued an order reflecting the following:

This letter is to confirm the oral order upon the motion to sever that was made at the telephonic pre-trial conference on September 4, 2003:

The motion of the Respondents is granted.

The claims are to be severed in the following sub-claims:

Claim of Clarence and Dorothy Coburn;
Claim of Alan and Laura Fisher;
Claim of Alan and Nancy Mahrer; and,
Claim of James Turbett.

Claimants have 30 days from date of the mailing of this order to refile the separate claims.

Any Claimants failing to refile their claims within that period of time shall have their claims dismissed without prejudice.

All members of the panel have been consulted and confirm that this is to be the written order of the panel.

On July 2, 2004, the Claimants dismissed Respondent FFP Securities, Inc. from the case.

The undersigned arbitrators have determined that Respondent Randy L. Beltramea d/b/a Beltramea Investment Management received due notice of the hearing as required under Rule 10315 of the NASD Code of Arbitration (the "Code") and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent FFP Securities, Inc. did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the 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 the NASD Dispute Resolution (the "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. Respondent Randy L. Beltramea d/b/a Beltramea Investment Management, is liable for and shall pay to Claimants James and Joanne Fisher, the sum of \$86,672.16 (Eighty Six Thousand Six Hundred Seventy Two Dollars and Sixteen Cents) in compensatory damages.
2. Respondent Randy L. Beltramea d/b/a Beltramea Investment Management, is liable for and shall pay to Claimants James and Joanne Fisher post-award interest on the above stated sum through and including the date the award is paid in full at the rate of 5% per annum.
3. Respondent Randy L. Beltramea d/b/a Beltramea Investment Management, is liable for and shall pay to Claimants James and Joanne Fisher the sum of \$21,418.00 (Twenty One Thousand Four Hundred Eighteen Dollars and No Cents) in attorney's fees pursuant to Iowa Code § 502.401.
4. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto 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 = \$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 FFP Securities, Inc.

| | | |
|-------------------------|----|-----------------|
| Member surcharge | \$ | 1,700.00 |
| Pre-hearing process fee | \$ | 750.00 |
| Hearing process fee | \$ | <u>2,750.00</u> |

Total Member Fees \$ 5,200.00

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

| | | | | | |
|---|--|---|----------|----|-----------------|
| 2 | Pre-hearing sessions with one Arbitrator | x | 450.00 | \$ | 900.00 |
| | May 3, 2004 | 1 | Session | | |
| | June 18, 2004 | 1 | Session | | |
| 3 | Pre-hearing sessions with Panel | x | 1,125.00 | \$ | 3,375.00 |
| | July 18, 2003 | 1 | Session | | |
| | September 4, 2003 | 1 | Session | | |
| | January 6, 2004 | 1 | Session | | |
| 1 | Hearing session | x | 1,125.00 | \$ | 1,125.00 |
| | July 6, 2004 | 1 | Session | | |
| | Total Forum Fees | | | \$ | <u>5,400.00</u> |

The Arbitration Panel has assessed \$5,400.00 of the forum fees to Randy L. Beltramea d/b/a Beltramea Investment Management.

Fee Summary

Claimants, James and Joanne Fisher, shall be and hereby are liable for:

| | | |
|---------------------------|------|------------------|
| <u>Initial Filing Fee</u> | = \$ | 300.00 |
| Total Fees | = \$ | 300.00 |
| <u>Less payments</u> | = \$ | <u>-1,700.00</u> |
| Refund due to Claimants | = \$ | 1,400.00 |

Respondent, FFP Securities, Inc., shall be and hereby is liable for:

| | | |
|---|------|------------------|
| <u>Member Fees</u> | = \$ | 5,200.00 |
| Total Fees | = \$ | 5,200.00 |
| <u>Less payments</u> | = \$ | <u>-5,750.00</u> |
| Refund due to Respondent FFP Securities, Inc. | = \$ | 550.00 |

Respondent, Randy L. Beltramea d/b/a Beltramea Investment Management, shall be and hereby is liable for:

| | | |
|------------------|------|-----------------|
| <u>Forum Fee</u> | = \$ | <u>5,400.00</u> |
|------------------|------|-----------------|

NASD Dispute Resolution
Arbitration No. 02-07827
Award Page 6 of 6

| | | |
|-------------------------------------|------|--------------|
| Total Fees | = \$ | 5,400.00 |
| <u>Less payments</u> | = \$ | <u>-0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 5,400.00 |

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

ARBITRATION PANEL

Robert Berkshire, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Gerald J. Stratman - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Robert Berkshire, Esq.
Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair

07/22/04
Signature Date

/s/ Richard M. Duxbury, Esq.
Richard M. Duxbury, Esq.
Public Arbitrator

07/26/04
Signature Date

/s/ Gerald J. Stratman
Gerald J. Stratman
Non-Public Arbitrator

07/22/04
Signature Date

07/26/04
Date of service

NASD Dispute Resolution
Arbitration No. 02-07827
Award Page 6 of 6

| | | |
|-------------------------------------|------|--------------|
| Total Fees | = \$ | 5,400.00 |
| <u>Less payments</u> | = \$ | <u>-0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 5,400.00 |

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

ARBITRATION PANEL

Robert Berkshire, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Gerald J. Stratman - Non-Public Arbitrator

Concurring Arbitrators:

Robert Berkshire
Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair

7/27/04
Signature Date

Richard M. Duxbury, Esq.
Richard M. Duxbury, Esq.
Public Arbitrator

Signature Date

Gerald J. Stratman
Gerald J. Stratman
Non-Public Arbitrator

Signature Date

Date of service

NASD Dispute Resolution
Arbitration No. 02-07827
Award Page 6 of 6

| | | |
|-------------------------------------|-------------|--------------|
| Total Fees | = \$ | 5,400.00 |
| <u>Less payments</u> | <u>= \$</u> | <u>-0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 5,400.00 |

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

ARBITRATION PANEL

Robert Berkshire, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Gerald J. Stratman - Non-Public Arbitrator

Concurring Arbitrators:

Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair


Richard M. Duxbury, Esq.
Public Arbitrator

Gerald J. Stratman
Non-Public Arbitrator

7/26/04
Date of service

Signature Date

7-26-04
Signature Date

Signature Date

NASD Dispute Resolution
Arbitration No. 02-07827
Award Page 6 of 6

| | | |
|-------------------------------------|------|--------------|
| Total Fees | = \$ | 5,400.00 |
| <u>Less payments</u> | = \$ | <u>-0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 5,400.00 |

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

ARBITRATION PANEL

Robert Berkshire, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Gerald J. Stratman - Non-Public Arbitrator

Concurring Arbitrators:

Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Richard M. Duxbury, Esq.
Public Arbitrator

Signature Date


Gerald J. Stratman
Non-Public Arbitrator

7-22-04
Signature Date

Date of service