

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant _____ Case Number: 03-00731
Lois R. Roberts Revocable Living Trust;
Scott D. Moore and Debra A. Moore, Co-Trustees

Name of the Respondents _____ Hearing Site: Indianapolis, Indiana
J.J.B. Hilliard, W.L. Lyons, Inc. and
Joe D. Keck

NATURE OF DISPUTE

Customer vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

William P. Kealey, Esq. of the law firm Stuart & Branigan, LLP, located in Lafayette, Indiana represented Claimant, Lois R. Roberts Revocable Living Trust, Scott D. Moore and Debra A. Moore, Co-Trustees, hereinafter referred to as "Claimant."

Elizabeth Jerdonek, Esq. and Kenneth Bravo, Esq. of the law firm Ulmer & Berne, LLP, located in Cleveland, Ohio, represented the Respondents, J.J.B. Hilliard, W.L. Lyons, Inc. ("Hilliard Lyons") and Joe D. Keck ("Keck"), hereinafter collectively referred to as "Respondents."

CASE INFORMATION

Statement of Claim filed on January 31, 2003.

Claimant, Lois R. Roberts Revocable Living Trust, Scott D. Moore and Debra A. Moore, Co-Trustees, jointly signed the Uniform Submission Agreement on January 16, 2003.
Statement of Answer filed by Respondents, J.J.B. Hilliard, W.L. Lyons, Inc. and Joe D. Keck, on May 21, 2003.

Respondent, J.J.B. Hilliard, W.L. Lyons, Inc. signed the Uniform Submission Agreement on February 10, 2003.

Respondent, Joe D. Keck, signed the Uniform Submission Agreement on May 27, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty, misrepresentations, unauthorized trading, churning and suitability. The causes of action relate to investments made for Claimant's Trust assets in Account Nos. 7141971 and 71258873. Claimant asserted that investments made in various tax-free, large cap, financial services, technology-oriented and health/medical mutual funds were high-risk, volatile and unsuitable to Claimant's needs and objectives.

Unless specifically admitted in its Answer, Respondents Hilliard Lyons and Keck denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant fails to state a claim upon which relief can be granted.
2. At all times herein, Respondents reasonably followed and adhered to all compliance and supervisory procedures, as well as to all applicable rules of the National Association of Securities Dealers, Inc.
3. Respondents, in discharging their duties, if any, to the Claimant, acted in good faith and exercised at least that degree of care, diligence and skill which ordinarily prudent persons would exercise in similar circumstances and like positions and discharged all duties legally owed the Claimant.
4. At all times herein, Respondent Hilliard Lyons properly supervised Keck.
5. The damages alleged to have been suffered by the Claimant were proximately caused, in whole or in part, by Claimant's assumption of risk and independent investment decisions.
6. The damages alleged to have been suffered by the Claimant were proximately caused, in whole or in part, by the conduct of third parties over whom one or both of the Respondents lacked control.
7. Claimant failed to mitigate and/or minimize its losses and is therefore barred from recovery from Respondents.
8. Claimant's claims of unsuitability are barred because the Trustee authorized, directed and/or ratified each and every transaction in the Trust account.
9. Some or all of the Claimant's claims may be barred by the applicable statutes of limitation and/or by the doctrines of waiver and laches.
10. Claimant is not entitled to attorney fees.
11. Claimant is not entitled to punitive damages.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages
Punitive Damages
Interest
Attorneys' Fees

Over \$500,000.00
unspecified
unspecified
unspecified

Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondents, Hilliard Lyons and Keck, requested that this case be dismissed in its entirety; that judgment be entered in their favor and against Claimant, with all costs and forum fees to be assessed against Claimant; that Respondents be awarded their attorneys' fees; and that all references to this matter be expunged from Keck's Central Registration Depository (CRD) record.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing of this matter, Respondent moved to dismiss this case. Panel denied such motion.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Any and all claims asserted by Claimant, Lois R. Roberts Revocable Living Trust, Scott D. Moore and Debra A. Moore, Co-Trustees, are denied.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Joe D. Keck's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Joe D. Keck must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Parties shall bear their own costs, including attorneys' fees, except as specified herein.
4. Any and all other relief not specifically addressed herein, including punitive 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, J.J.B. Hilliard, W.L. Lyons, Inc. is a party to this case and is assessed the following fees:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 4,000.00</u>
Total fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: July 14, 2003 1 session

One (1) Pre-hearing session with full Panel @ \$1,200.00 = \$ 1,200.00
Pre-hearing conference: October 27, 2003 1 session

Four (4) Hearing sessions @ \$1,200.00 = \$ 4,800.00
Hearing Dates: February 25, 2004 2 sessions
February 26, 2004 2 session

Total Forum Fees = \$ 6,450.00

1. The Panel has assessed 100% of the total forum fees in the amount of \$6,450.00 solely to Claimant, Lois R. Roberts Revocable Living Trust, Scott D. Moore and Debra A. Moore as Co-Trustees.

Fee Summary

1. Claimant, Lois R. Roberts Revocable Living Trust, is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 6,450.00</u>
Total Fees	= \$ 6,825.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,125.00

2. Respondent, J.J.B. Hilliard, W.L. Lyons, Inc. is solely liable for:

Member Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$11,550.00</u>
Refund Due from NASD Dispute Resolution	= \$ 4,550.00

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

ARBITRATION PANEL

Stephen C. Cline, Esq.	-	Public Arbitrator, Presiding Chairperson
Judy Estabrook Shepard	-	Public Arbitrator
Thomas A. Welch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Stephen C. Cline, Esq.
Public Arbitrator, Presiding Chairperson

3/29/04
Signature Date

Judy Estabrook Shepard
Public Arbitrator

3/26/04
Signature Date

Thomas A. Welch
Non-Public Arbitrator

3/26/04
Signature Date

3/29/04
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-00731

Award Page 5

2. Respondent, J.J.B. Hilliard, W.L. Lyons, Inc. is solely liable for:

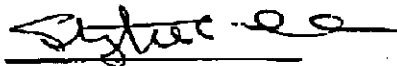
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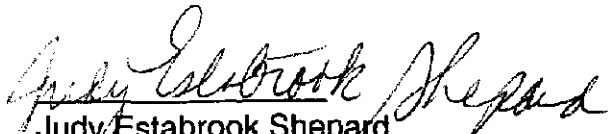
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