
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Johnnie Williams, Jr.

Case Number: 03-01368

Names of the Respondents
Irving Warman, Fiserv Investor Services,
Inc., PFIC Securities Corp. and BHCM, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Johnnie Williams, Jr., hereinafter referred to as "Claimant": Curtis Carlson, Esq., Payton & Carlson, P.A., Miami, Florida.

For Respondent Irving Warman ("Warman"): Marc S. Dobin, Esq., Dobin & Jenks, LLP, Jupiter, Florida.

For Respondents Fiserv Investor Services, Inc. ("Fiserv") and BHCM, Inc. ("BHCM"): Adam D. Palmer, Esq., Baritz & Colman, LLP, Boca Raton, Florida.

For Respondent PFIC Securities Corp. ("PFIC"): Jon A. Jacobson, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 19, 2003.

Claimant signed the Uniform Submission Agreement: March 17, 2003.

Statement of Answer filed by Respondent Warman on or about: May 15, 2003.

Respondent Warman signed the Uniform Submission Agreement: May 18, 2003.

Answer and Affirmative Defenses filed by Respondents Fiserv and BHCM on or about: June 11, 2003.

Respondent Fiserv signed the Uniform Submission Agreement: September 21, 2004.

Respondent BHCM signed the Uniform Submission Agreement: September 21, 2004.

Answer and Defenses filed by Respondent PFIC on or about: April 2, 2004.

Respondent PFIC signed the Uniform Submission Agreement: September 17, 2004.

Motion to Amend by Interlineation filed by Respondents Fiserv and BHCM on or about: October 15, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: churning; unsuitability; breach of fiduciary duty; unauthorized trading; misrepresentation; omission of facts; negligent and improper

supervision; and, respondeat superior. The causes of action relate to the purchase and sale of unspecified securities products in Claimant's accounts.

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

Unless specifically admitted in their Answer, Respondents Fiserv and BHCM denied the allegations made in the Statement of Claim and asserted various defenses.

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

RELIEF REQUESTED

Claimant requested the following: compensatory and restitutionary damages in the amount of \$148,000.00, plus lost interest; or, in the alternative, the difference between the value of Claimant's accounts had they been managed according to the well-managed account theory and the actual value of the accounts as of the date Claimant requested Respondent Warman suspend trading on Claimant's behalf; punitive damages in the amount of \$444,000.00; costs; a finding that Respondent Warman is guilty of breach of fiduciary duty, churning, misrepresentation, unauthorized trading, unsuitability and omission of facts; and, a finding that Respondents Fiserv, BHCM and PFIC are guilty of negligent supervision.

Respondent Warman requested an award denying Claimant's claims.

Respondents Fiserv and BHCM requested dismissal of the Statement of Claim.

Respondent PFIC requested that the Statement of Claim be denied in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 4, 2004, the Panel granted Respondents Fiserv and BHCM's Motion to Amend by Interlineation and permitted Respondents Fiserv and BHCM to assert an additional affirmative defense.

On or about November 12, 2004, Claimant notified NASD Dispute Resolution that he had settled his claims against Respondents Warman and PFIC.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Respondents Fiserv and BHCM jointly and severally are liable to Claimant on the claim of

negligent and improper supervision and shall pay to Claimant compensatory damages in the amount of \$80,000.00, plus interest at the Florida statutory rate from April 30, 1999 to November 23, 2004.

Respondents Fiserv and BHCM jointly and severally are liable and shall pay to Claimant the sum of \$187.50 representing reimbursement of one-half of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

The Panel believes that Claimant is entitled to payment of one-half of his reasonable attorney's fees and expert witness fees by Respondents Fiserv and BHCM. The Panel refers this issue to a court of competent jurisdiction for determination.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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	= \$ 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 firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms Fiserv Investor Services, Inc. and PFIC Securities Corp. are parties.

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

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

September 28-October 1, 2004, adjournment requested by Respondents Fiserv and BHCM.
\$1200.00 adjournment fee waived by the Panel.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is adjourned or settled within three business days before the start of a scheduled hearing session:

September 28-October 1, 2004, adjournment requested by Respondents Fiserv and BHCM.
\$300.00 three-day cancellation fee waived by the Panel.

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 incurred in this matter.

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:

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00	= \$ 3,600.00
Pre-hearing conferences:	
February 16, 2004	1 session
September 27, 2004	1 session
October 1, 2004	1 session
Six (6) Hearing sessions @ \$1,200.00	= \$ 7,200.00
Hearing Dates:	
November 16, 2004	2 sessions
November 17, 2004	2 sessions
November 18, 2004	2 sessions
Total Forum Fees	= \$10,800.00

The Panel has assessed \$2,700.00 of the forum fees to Claimant.

The Panel has assessed \$8,100.00 of the forum fees jointly and severally to Respondents Fiserv and BHCM.

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 are 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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 2,700.00
Total Fees	= \$ 3,075.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

Respondent Fiserv is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
Total Fees	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent PFIC is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
Total Fees	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Fiserv and BHCM are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 8,100.00
Total Fees	= \$ 8,100.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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

ARBITRATION PANEL

Jerrold Levine	-	Public Arbitrator, Presiding Chairperson
Paul W. Sterman, CPA	-	Public Arbitrator
David M. Finkel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

11/29/04

Jerrold Levine
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

11/29/04

Paul W. Sterman, CPA
Public Arbitrator

Signature Date

/s/

11/29/04

David M. Finkel
Non-Public Arbitrator

Signature Date

11/29/04

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

Respondent Fiserv is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent PFIC is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Fiserv and BHCM are jointly and severally liable for:

Forum Fees	= \$ 1,100.00
Total Fees	= \$ 1,100.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,100.00

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Jerrold Levine
Public Arbitrator, Presiding Chairperson

Signature / Date

Paul W. Sterman

Paul W. Sterman, CPA
Public Arbitrator

11/29/2004
Signature / Date

David M. Finkel
Non-Public Arbitrator

Signature / Date

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Respondent Fiserv is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Total Fees</u>	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent PFIC is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Total Fees</u>	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents Fiserv and BHCM are jointly and severally liable for:

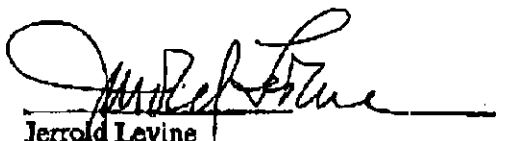
<u>Forum Fees</u>	= \$ 8,100.00
<u>Total Fees</u>	= \$ 8,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,100.00

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Concurring Arbitrators' Signatures


Jerrold Levine
Public Arbitrator, Presiding Chairperson

11-29-04
Signature Date

Paul W. Sterman, CPA
Public Arbitrator

Signature Date

David M. Finkel
Non-Public Arbitrator

Signature Date

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

Respondent Fiserv is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Total Fees</u>	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent PFIC is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Total Fees</u>	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents Fiserv and BHCM are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 8,100.00
<u>Total Fees</u>	= \$ 8,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,100.00

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Concurring Arbitrators' Signatures

Jerrold Levine
Public Arbitrator, Presiding Chairperson

Signature Date

Paul W. Sterman, CPA
Public Arbitrator

Signature Date


David M. Finkel
Non-Public Arbitrator

4/29/04
Signature Date

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