

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Evelyn M. Greenfield and Evelyn M. Greenfield IRA, Claimants v. Advest, Inc. and Ralph Picascio, Respondents/Third-Party Claimants v. Eugene Nagel, Third-Party Respondent

Case Number: 03-01768

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member and Associated Person (Initial Claim)
Member and Associated Person v. Customer (Third-Party Claim)

REPRESENTATION OF PARTIES

Claimants, Evelyn M. Greenfield ("Greenfield") and Evelyn M. Greenfield IRA ("Greenfield IRA") hereinafter collectively referred to as "Claimants": Jerome Olitt, Esq., Arbitration and Mediation Specialists, Inc., Stamford, CT.

Respondents/Third-Party Claimants, Advest, Inc. ("Advest") and Ralph Picascio ("Picascio"), hereinafter collectively referred to as "Respondents": Michael Kalmus, Esq., Law Office of Michael Kalmus, New York, NY.

Third-Party Respondent, Eugene Nagel ("Nagel") hereinafter referred to as "Third-Party Respondent": Eugene L. Small, Esq., Alonso, Andalkar & Kahn, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 10, 2003.

Claimants signed the Uniform Submission Agreement: March 10, 2003.

Joint Statement of Answer and Third-Party Claim filed by Respondents on or about: June 3, 2003.

Respondent Advest signed the Uniform Submission Agreement: March 28, 2003

Respondent Picascio signed the Uniform Submission Agreement: April 8, 2003.

Third-Party Respondent did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: inappropriate and/or unsuitable transactions; failure to adhere to customer's overall investment goals and objectives; unacceptable levels of risk and risk tolerance; failure to maintain/implement adequate and/or appropriate supervisory controls; breach of the implied covenants of good faith and fair dealings; improper business

conduct and trading practices; breach of contractual obligations and duties; negligence. The causes of action relate to the sale of unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses, among others: Claimant authorized a third-party agent, Eugene Nagel, to make investment decisions in her account; Claimant agreed to hold Respondents harmless from any losses resulting from the third-party agent's activities in her account; the broker, Picascio, did not solicit, recommend, or execute any trades on behalf of Claimant; the Claim fails to state a claim on which relief can be granted; Claimant is barred from recovery by the doctrines of waiver and estoppel.

In their Third-Party Claim, Respondents asserted the following causes of action: omissions; negligence; and breach of fiduciary duty.

RELIEF REQUESTED

Claimant requested:

- Compensatory damages in the amount of \$225,000;
- Applicable interest;
- Punitive damages in the amount of \$50,000;
- Recovery of commissions;
- Forum fees, hearing fees, and costs.

Respondents requested dismissal of the Statement of Claim in its entirety; expungement of all reference to the arbitration from Respondent Picascio's registration records maintained by the NASD Central Registration Depository ("CRD"); indemnification against Third-Party Respondent; and such other and further relief that the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On April 20, 2004, Respondents filed a motion to dismiss the Claim. The Panel denied the motion.

Third Party Respondent moved in New York Supreme Court to have the third party arbitration stayed because he was not an associated person nor did he sign an arbitration agreement. The court granted the motion and stayed the third party arbitration.

On or about October 7, 2004, Claimant notified NASD Dispute Resolution that this matter was settled.

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

On October 6, 2004, the parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an Award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The parties have entered into a confidential settlement agreement.
2. The Claimant has dismissed all claims with prejudice against Respondents.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ralph Picascio'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 Picascio must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. All other requests for relief, including punitive damages, are 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	= \$ 300.00
Third-Party Claim filing fee	= \$1,000.00

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, Advest, Inc. is 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

Forum Fees and Assessments

The 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$1,125.00
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Pre-hearing conferences:	January 5, 2004	1 session
	February 9, 2005	1 session

Total Forum Fees = \$2,250.00

1. The Panel has assessed \$562.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents.
3. The Panel has assessed \$1,125.00 of the forum fees solely against Respondent Advest.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Refund Due Claimants	= \$ 562.50

2. Respondent Advest is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$6,325.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$1,125.00

3. Respondents are jointly and severally liable for:

Third-Party Filing Fee	= \$1,000.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$1,562.50
<u>Less payments</u>	<u>= \$1,500.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 62.50

All balances are due and payable to NASD Dispute Resolution.

NASD Dispute Resolution
Arbitration No. 03-01768
Award Page 5 of 6

Parties' Signatures


Evelyn M. Greenfield
Claimant

10/27/04
Signature Date

For Advent, Inc.
Respondent

Signature Date

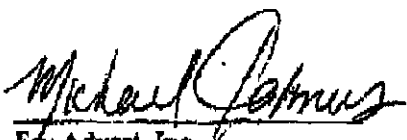
Ralph Picascio
Respondent

Signature Date

Parties' Signatures

Evelyn M. Greenfield
Claimant

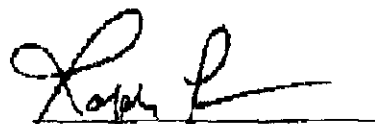
Signature Date



For Advest, Inc.
Respondent

11/3/04

Signature Date



Ralph Picascio
Respondent

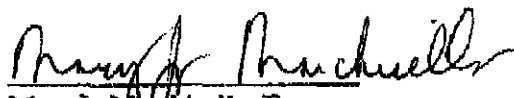
10-27-04

Signature Date

ARBITRATION PANEL

Mary Jo Marchisello, Esq.	-	Public Arbitrator, Presiding Chair
Joseph A. Calamari	-	Public Arbitrator
Mark D. Quinn, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mary Jo Marchisello, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph A. Calamari
Public Arbitrator

Signature Date

Mark D. Quinn, Esq.
Non-Public Arbitrator

Signature Date

March 31, 2005
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-01768
Award Page 6 of 6

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Mary Jo Marchisello, Esq.	-	Public Arbitrator, Presiding Chair
Joseph A. Calamari	-	Public Arbitrator
Mark D. Quinn, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mary Jo Marchisello, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Joseph A. Calamari
Public Arbitrator

3/8/05
Signature Date

Mark D. Quinn, Esq.
Non-Public Arbitrator

Signature Date

March 31, 2005

Date of Service (For NASD office use only)

ARBITRATION PANEL

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Joseph A. Calamari	-	Public Arbitrator
Mark D. Quinn, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Public Arbitrator, Presiding Chair

Signature Date

Joseph A. Calamari
Public Arbitrator

Signature Date



Mark D. Quinn, Esq.
Non-Public Arbitrator

Signature Date

March 31, 2005

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