

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Frank A. Turek, Jr. (Claimant) v. Joan A. Brown d/b/a R & J Brown Planning
(Respondent)

Case Number: 03-02564

Hearing Site: Buffalo, New York

Nature of the Dispute: Customer v. Associated Person.

REPRESENTATION OF PARTIES

Claimant Frank A. Turek, Jr. ("Turek") hereinafter referred to as "Claimant": Richard B. Thaler, Esq., Thaler & Thaler, Ithaca, NY.

Respondent Joan A. Brown ("Brown") hereinafter referred to as "Respondent": Greta K. Kolcon, Esq., Woods Oviatt Gilman, LLP, Rochester, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 3, 2003.

Claimant signed the Uniform Submission Agreement: April 2, 2003.

Statement of Answer filed by Respondent on or about: May 19, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; violation of NASD Conduct Rules 2310-2 and 3210-2(5); violation of the antifraud provisions of Sections 12(a) and 17 (a) of the Securities Act of 1933; and violation of NASD Rules of Fair Practice. Claimant's claim involved DFS Secured Healthcare Receivables Trust II and IBF Special Purpose Fund VII.

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

RELIEF REQUESTED

Claimant requested lost principal in the amount of \$138,000.00; surrender charges in the amount of \$5,834.29; lost opportunity in the amount of \$41,400.00; interest, reasonable attorneys' fees, and costs; and punitive damages in the amount of \$200,000.00.

Respondent requested that Claimant's Statement of Claim be dismissed against her with prejudice, that Claimant be directed to bear the full cost of the NASD proceedings, and that Respondent be awarded reasonable attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent 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, and appeared and testified at the hearing, 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.

AWARD

After considering the pleadings, and 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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$17,500.00. If the Award is not paid within thirty (30) days, interest will accrue at a rate of 9% per annum from the date of the award.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEEES

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
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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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$2,250.00
Pre-hearing conferences: November 19, 2003 1 session
May 18, 2004 1 session

Three (3) Hearing sessions @ \$1,125.00 = \$3,375.00
Hearing Date: May 25, 2004 3 sessions
Total Forum Fees = \$5,625.00

1. The Panel has assessed \$2,812.50 of the forum fees against Claimant.
2. The Panel has assessed \$2,812.50 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,112.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$1,687.50
2. Respondent is solely liable for:

Forum Fees	= \$2,812.50
Total Fees	= \$2,812.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$2,812.50

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

ARBITRATION PANEL

Robert Gleichenhaus, Esq. - Public Arbitrator, Presiding Chair
Robert H. Rushowy - Public Arbitrator
Margaret Suzanne Blowers - Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Robert Gleichenhaus, Esq.
Public Arbitrator, Presiding Chairperson

6/7/04
Signature Date

Robert H. Rushowy
Public Arbitrator

Signature Date

Margaret Suzanne Blowers
Non-Public Arbitrator

Signature Date

June 23, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

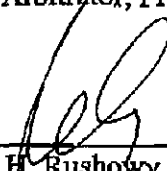
Robert Gleichenhaus, Esq.	-	Public Arbitrator, Presiding Chair
Robert H. Rushowy	-	Public Arbitrator
Margaret Suzanne Blowers	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Robert Gleichenhaus, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Robert H. Rushowy
Public Arbitrator

4 June 04

Signature Date

Margaret Suzanne Blowers
Non-Public Arbitrator

Signature Date

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