

**AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant

Shapoor Ansari, M.D., Individually and as  
Trustee of the Monroe Clinic Pension &  
Profit Sharing Plan

and

Case Number: 03-02941  
Hearing Site: Troy, Michigan

Respondents

H&R Block Financial Advisors, Inc.  
f/k/a OLDE Discount Corporation and  
Joseph D. Sheeran

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**NATURE OF DISPUTE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Shapoor Ansari, M.D., Individually and as Trustee of the Monroe Clinic Pension & Profit Sharing Plan ("Claimant") was represented by John A. Libby, Esq., Law Offices of John A. Libby, P.C., Troy, Michigan, and Larry Elliott, Esq., Cohen & Grigsby, P.C., Pittsburgh, Pennsylvania. Claimants were represented by Jonathan A. Boynton, Esq., Michael L. Kirby, Esq., and Jason M. Kirby, Esq., Post Kirby Noonan & Sweat LLP, San Diego, California, from filing until on or about July 8, 2004, and Eric S. Richards, Esq., Mika Meyers Beckett & Jones, PLC, Grand Rapids, Michigan from on or about January 3, 2004 to July 8, 2004.

H&R Block Financial Advisors, Inc. f/k/a OLDE Discount Corporation ("HRBFA") and Joseph D. Sheeran ("Sheeran") were represented by Ronald P. Kane, Esq., Kane & Fischer, Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim and Agreement and Declaration of Trust was filed on or about April 22, 2003. The Submission Agreement of Shapoor Ansari, M.D., Individually and as Trustee of the Monroe Clinic Pension & Profit Sharing Plan was signed on or about April 8, 2003.

The Statement of Answer was filed jointly by Respondents on or about April 18, 2003. The Submission Agreement of HRBFA was signed on or about August 18, 2003, by David C. Andrew, General Counsel. The Submission Agreement of Sheeran was signed on or about August 18, 2003.

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### **CASE SUMMARY**

Claimant asserted the following causes of action: negligence and misconduct including the failure of Respondents to institute stop-loss protections into the retirement plan, failure to diversify, permitting a retirement account to have margin debt, and failure of Respondents to know their client. The causes of action related to the investment and management of Shapoor Ansari, M.D.'s Retirement and individual Accounts. Claimant asserted that Respondents mismanaged Claimant's accounts, did not abide by Claimant's investment goals and handled Claimant's accounts primarily for their own benefit. The causes of action related to various securities including Intel Corp Legato Systems, Inc., Texaco, and Xircom.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant's claims are barred by the doctrines of waiver, estoppel, ratification, and laches; Claimant has failed to state a claim on which relief can be granted; Claimant's claims are barred by the statute of frauds; Claimant failed to mitigate his losses; Claimant assumed the risk of the transactions engaged in and the investment losses incurred; and economic industry, corporate and market conditions, and not Respondents, were responsible for Claimant's losses, if any.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of actual and consequential damages in excess of \$30,000,000.00, plus restitution of ill-gotten gains for all margin interest paid to Respondents; pre-judgment interest, punitive damages, costs, attorneys' fees, and such other and further relief as the panel deemed proper.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

At the hearing, Respondents moved for dismissal. The panel denied the motion on the record at the hearing.

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 NASD Dispute Resolution ("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.) Claimant's claims, each and all, are denied and dismissed with prejudice;

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- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **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 = \$ 600.00

#### **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 H&R Block Financial Advisors, Inc. f/k/a OLDE Discount Corporation.

Member surcharge = \$ 3,750.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

October 18-22, 2004, adjournment requested jointly (fee waived) = \$ 1,200.00

January 10-14, 2005, adjournment requested jointly by Respondents = \$ 1,200.00

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

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00  
 Pre-hearing conference: August 24, 2004 1 session

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$ 2,400.00  
 Pre-hearing conferences: January 15, 2004 1 session  
 December 16, 2004 1 sessions

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Fifteen (15) Hearing sessions x \$1,200.00 = \$18,000.00

Hearing Dates:	August 8, 2005	2 sessions
	August 9, 2005	2 sessions
	August 10, 2005	2 sessions
	August 11, 2005	2 sessions
	August 12, 2005	2 sessions
	November 1, 2005	2 sessions
	November 2, 2005	2 sessions
	November 3, 2005	1 session

Total Forum Fees = \$20,850.00

The Arbitration Panel has assessed \$10,425.00 of the forum fees to Shapoor Ansari, M.D., Individually and as Trustee of the Monroe Clinic Pension & Profit Sharing Plan, jointly and severally.

The Arbitration Panel has assessed \$10,425.00 of the forum fees to HRBFA.

#### Fee Summary

Claimant, Shapoor Ansari, M.D., Individually and as Trustee of the Monroe Clinic Pension & Profit Sharing Plan, is liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$10,425.00
Total Fees	= \$11,025.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 9,225.00

Respondent, H&R Block Financial Advisors, Inc. f/k/a OLDE Discount Corporation, is liable for:

Member Fees	= \$ 10,000.00
Forum Fees	= \$ 10,425.00
Total Fees	= \$ 20,425.00
Less payments	= \$ 10,750.00
Balance Due NASD Dispute Resolution	= \$ 9,675.00

Respondents, H&R Block Financial Advisors, Inc. f/k/a OLDE Discount Corporation, and Joseph Sheeran, are jointly and severally liable for:

Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 1,200.00
Less payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

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**ARBITRATION PANEL**

Paul M. Stoychoff, Esq. - Public Arbitrator, Presiding Chair  
G. Philip Dietrich, Esq. - Public Arbitrator  
William C. Kubicz - Non - Public Arbitrator

**Concurring Arbitrators:**

/s/ Paul M. Stoychoff, Esq.  
Paul M. Stoychoff, Esq.  
Public Arbitrator, Presiding Chair

11/7/05  
Signature Date

/s/ G. Philip Dietrich, Esq.  
G. Philip Dietrich, Esq.  
Public Arbitrator

11/5/05  
Signature Date

/s/ William C. Kubicz  
William C. Kubicz  
Non-Public Arbitrator

11/7/05  
Signature Date

11/8/05  
Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

Paul M. Stoychoff, Esq. - Public Arbitrator, Presiding Chair  
G. Philip Dietrich, Esq. - Public Arbitrator  
William C. Kubicz - Non - Public Arbitrator

Concurring Arbitrators:

Paul M. Stoychoff

Paul M. Stoychoff, Esq.  
Public Arbitrator, Presiding Chair

11/7/05  
Signature Date

G. Philip Dietrich, Esq.  
Public Arbitrator

Signature Date

William C. Kubicz  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

11/21/2005 08:28 FAX

11/07/2005 10:03 FAX 2483737552

11/04/05 FRI 15:10 FAX

NASD

RAYMOND JAMES

NASD REGULATION

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**ARBITRATION PANEL**

Paul M. Stoychoff, Esq. - Public Arbitrator, Presiding Chair

G. Philip Dietrich, Esq. - Public Arbitrator

William C. Kubicz - Non - Public Arbitrator

**Concurring Arbitrators:**

Paul M. Stoychoff, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

G. Philip Dietrich, Esq.  
Public Arbitrator

Signature Date

*William C. Kubicz*  
William C. Kubicz  
Non-Public Arbitrator

11/7/05  
Signature Date

Date of Service (For NASD office use only)

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NASD Dispute Resolution, Inc.

**ARBITRATION PANEL****RECEIVED**  
NOV 14 2005

Paul M. Stoychoff, Esq. - Public Arbitrator, Presiding Chair  
G. Philip Dietrich, Esq. - Public Arbitrator  
William C. Kubicz - Non - Public Arbitrator

**Concurring Arbitrators:**

Paul M. Stoychoff, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

*G. Philip Dietrich*  
G. Philip Dietrich, Esq.  
Public Arbitrator

*November 5, 2005*  
Signature Date

William C. Kubicz  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)