

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Eleanor Tasher

Case Number: 03-03410

Names of the Respondents  
Legacy Financial Services, Inc.  
Joseph Karsner

Hearing Site: Washington, D.C.

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

**REPRESENTATION OF PARTIES**

Claimant, Eleanor Tasher ("Claimant"), was represented by William B. Young, Jr., Esq., Hooper & Weiss, L.L.C., Orlando, Florida.

Respondents, Legacy Financial Services, Inc. ("Legacy Financial") and Joseph Karsner ("Karsner"), hereinafter collectively referred to as "Respondents", were represented by George S. Mahaffey, Jr., Esq., Goodell, DeVries, Leech & Dann, L.L.P., Baltimore, Maryland.

**CASE INFORMATION**

Statement of Claim filed on or about May 8, 2003.

Claimant signed the Uniform Submission Agreement on March 30, 2003.

Statement of Answer filed by Respondents on July 15, 2003.

Respondents did not file Uniform Submission Agreements.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: negligence, breach of contract, breach of fiduciary duty, *respondeat superior*, violation of NASD Rule 2110, failure to supervise, unsuitability, and omissions/misrepresentations. The causes of action relate to Claimant's investments in American Skandia Advisor Funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief can be granted assumption of the risk; contributory negligence; Claimant's claim is barred by the doctrines of waiver and estoppel; failure to mitigate damages; and some or all of Claimant's claims are barred and/or preempted by the Employee Retirement Income Security Act ("ERISA").

RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$186,753.26
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety and that the Arbitration Panel (the "Panel") award them attorneys' fees, forum fees, and other costs incurred.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

At the commencement of the hearing on the merits Respondents moved for summary judgment. Having heard oral arguments from all parties, the Panel denied Respondents' motion.

At the hearing Respondent Karsner requested that the panel recommend that all reference to this arbitration should be expunged from Karsner's record maintained by the NASD Central Registration Depository ("CRD").

On December 22, 2004 Claimant filed an Emergency Motion to Stay Arbitration in order to supplement the evidentiary record. Respondents filed their opposition to the motion on December 29, 2004. By order dated January 13, 2005 the Panel granted the motion. The final post-hearing submission was filed on April 21, 2005.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondents Legacy Financial and Karsner are denied in their entirety;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Karsner'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 Karsner must obtain confirmation

from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. All claims for punitive damages are denied in their entirety;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein, is denied in its entirety.

#### 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
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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 person(s) at the time of the events giving rise to the dispute. Accordingly, Legacy Financial 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 has assessed forum fees for each session conducted. A 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:

Three (3) Pre/post-hearing sessions with Panel @ \$1,125.00	= \$3,375.00
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Pre-hearing conferences:	March 19, 2004	1 session
	December 16, 2004	1 session
Post-hearing conference:	January 13, 2005	1 session

Four (4) Hearing sessions with Panel @ \$1,125.00	= \$4,500.00
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Pre-hearing conferences:	December 20, 2004	2 sessions
	December 21, 2004	2 sessions

Total Forum Fees	= \$7,875.00
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1. The Panel has assessed \$3,937.50 of the forum fees to Claimant.
2. The Panel has assessed \$3,937.50 of the forum fees to Respondent Legacy Financial.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,937.50
Total Fees	= \$4,237.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$2,812.50

2. Respondent Legacy Financial is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
Forum Fees	= \$3,937.50
Total Fees	= \$9,137.50
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$3,937.50

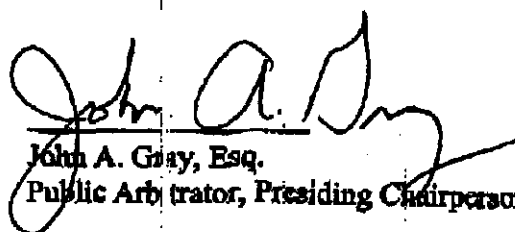
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

John A. Gray, Esq.	-	Public Arbitrator, Presiding Chairperson
Anthony S. Paetro, Esq.	-	Public Arbitrator, Panelist
Robert Paulger Linn	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures

  
John A. Gray, Esq.  
Public Arbitrator, Presiding Chairperson

5-10-05  
Signature Date

Anthony S. Paetro, Esq.  
Public Arbitrator, Panelist

Signature Date

Robert Paulker Linn  
Non-Public Arbitrator, Panelist

Signature Date

5/12/05  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

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Award Page 2Concurring Arbitrators' SignaturesJohn A. Gray, Esq.

Public Arbitrator, Presiding Chairperson

Signature DateAnthony S. Pactro, Esq.  
Public Arbitrator, PanelistSignature Date*Approved without any  
charges*Robert Paulger LinnRobert Paulger Linn  
Non-Public Arbitrator, Panelist5/9/05  
Signature Date5/12/05  
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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Anthony S. Pactro, Esq.  
Public Arbitrator, Panelist

5/10/05  
\_\_\_\_\_  
Signature Date

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Robert Paulger Linn  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

5/12/05

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