

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Florian and Dawn Weinhaus

v.

03-05141

Minneapolis, Minnesota

Respondents

Securities America, Inc., Charles A. Blossom
and Prestige Planning, Inc.

Nature of Dispute: Customers v. Member, Associated Person and Non-Member

REPRESENTATION OF PARTIES

Florian and Dawn Weinhaus ("**Claimants**") were represented by Harvey H. Eckart, Esq., St. Paul, Minnesota and Todd Young, Esq., of Roseville, Minnesota.

Securities America, Inc. ("**SAP**"), Charles A. Blossom ("**Blossom**") and Prestige Planning, Inc. ("**PPI**"), hereinafter referred to as "Respondents," were represented by Denis C. Dice, Esq., of Marshall, Dennehy, Warner, Coleman & Goggin, Philadelphia, Pennsylvania.

CASE INFORMATION

The Statement of Claim was filed on or about July 11, 2003. The Submission Agreements of Claimants, Florian and Dawn Weinhaus, were signed on or about July 8, 2003.

The Statement of Answer was filed jointly by Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc. on or about September 26, 2003. The Submission Agreement of Respondent Securities America, Inc. was signed on or about August 28, 2003.

A Motion to Dismiss was filed jointly by Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc. on or about September 26, 2003.

Claimants filed a Response to Respondents' Motion to Dismiss on or about October 13, 2003.

CASE SUMMARY

Claimants asserted causes of action including the following: breach of contract, negligence, breach of fiduciary duty, suitability, violation of the Minnesota Consumer Fraud Statute § 325.F.69, failure to supervise, and respondeat superior. The causes of action related to Claimants' allegation that Respondent Blossom concentrated Claimants' retirement funds in unsuitable, high-risk growth

mutual funds, including: Davis NY Venture, Pilgrim Worldwide Growth, Putnam Health Sciences, Putnam Growth Opportunities and Van Kampen Emerging Growth. Claimants alleged that given their age, financial objectives and risk tolerance, these investments were unsuitable and lacked diversification and led to significant losses in their portfolio.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants failed to state a claim upon which relief can be granted; any losses which may have occurred were the direct result of conditions and other factors beyond the control of Respondents; Claimants' claims are barred, in whole or in part, under the doctrines of estoppel and or laches; Claimants' claims are barred, in whole or in part, by the applicable statutes of limitations and equitable principles of law; Claimants ratified, approved and controlled the execution of all transactions in the complained account and, accordingly, Claimants' claims are barred as a matter of law.

RELIEF REQUESTED

Claimants requested an award in the amount of \$86,687.00 in compensatory damages, plus lost opportunity damages, costs, interest, attorneys' fees, punitive damages and any other relief that the panel deemed just and 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

Respondent, Charles A. Blossom, 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.

Respondent, Prestige Planning, Inc., did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but having answered the claim, and appeared and testified through counsel at the hearing, is bound by the determination of the panel on all issues submitted.

The panel denies Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc.'s Motion to Dismiss herein.

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 originals 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. Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc., are jointly and severally liable for and shall pay to Claimants Florian and Dawn Weinhaus, the sum of Sixty Nine Thousand Dollars and No Cents (\$69,000.00) in compensatory damages;
2. Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc., are jointly and severally liable for and shall pay to Claimants, Florian and Dawn Weinhaus, the sum of Twenty Three Thousand Dollars and No Cents (\$23,000.00) in attorneys' fees pursuant to Minnesota Stat. §§ 325F.69, 8.31;
3. Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc., are jointly and severally liable for and shall pay to Claimants Florian and Dawn Weinhaus, the sum of One Thousand Nine Hundred Ninety Four Dollars and Fourteen Cents (\$1,994.14) in out-of pocket expenses pursuant to Minnesota Stat. §§ 325F.69, 8.31;
4. Respondents, Securities America, Inc., Charles A. Blossom and Prestige Planning, Inc., are jointly and severally liable for and shall pay to Claimants, Florian and Dawn Weinhaus, the sum of Two Hundred Twenty Five Dollars and No Cents (\$225.00) in arbitration costs pursuant to Minnesota Stat. §§ 325F.69, 8.31; and
5. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 225

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 Securities America, Inc.

Member surcharge	= \$ 1,100
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 1,700

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 the Chairperson x \$ 450	= \$ 450
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Pre-hearing conference:	04/26/2004	1 session
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One (1) Pre-hearing session with Panel x \$ 750	= \$ 750
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Pre-hearing conference:	03/15/2004	1 session
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Five (5) Hearing sessions with Panel x \$ 750	= \$ 3,750
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Hearing Dates:	09/28/2004	2 sessions
	09/29/2004	2 sessions
	09/30/2004	1 session

Total Forum Fees	= \$ 4,950
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The Arbitration Panel has assessed \$ 4,950 of the forum fees jointly and severally to Securities America, Inc. Charles A. Blossom and Prestige Planning, Inc.

Fee Summary

Claimants, Florian and Dawn Weinhaus, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 225
Total Fees	= \$ 225
<u>Less payments</u>	= \$ 1,425
Balance Refunded By NASD Dispute Resolution	= \$ 1,200

Respondent, Securities America, Inc., is liable for:

<u>Member Fees</u>	= \$ 3,550
Total Fees	= \$ 3,550
<u>Less payments</u>	= \$ 3,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, Securities America, Inc. Charles A. Blossom and Prestige Planning, Inc., are jointly and severally for:

<u>Forum Fees</u>	= \$ 4,950
Total Fees	= \$ 4,950
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 4,950

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

ARBITRATION PANEL

Thomas J. Gmeinder, Esq. - Public Arbitrator, Presiding Chair
Duane W. Krohnke, Esq. - Public Arbitrator
Roger George Lindquist- Non-Public Arbitrator

Concurring Arbitrators:

Thomas J. Gmeinder, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Duane W. Krohnke, Esq.
Public Arbitrator

Signature Date

Roger George Lindquist
Non-Public Arbitrator

Signature Date

10/13/04

Date of Service (NASD use only)

Respondent, Securities America, Inc., is liable for:

Member Fees	= \$ 3,550
Total Fees	= \$ 3,550
Less payments	= \$ 3,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, Securities America, Inc. Charles A. Blossom and Prestige Planning, Inc., are jointly and severally for:

Forum Fees	= \$ 4,950
Total Fees	= \$ 4,950
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 4,950

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Concurring Arbitrators:

Thomas J. Gmeinder
Thomas J. Gmeinder, Esq.
Public Arbitrator, Presiding Chair

10-15-04
Signature Date

Duane W. Krohnke, Esq.
Public Arbitrator

Signature Date

Roger George Lindquist
Non-Public Arbitrator

Signature Date

Date of Service (NASD use only)

Respondent, Securities America, Inc., is liable for:

<u>Member Fees</u>	= \$ 3,550
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<u>Forum Fees</u>	= \$ 4,950
<u>Total Fees</u>	= \$ 4,950
<u>Less payments</u>	= \$ 0
<u>Balance Due NASD Dispute Resolution</u>	= \$ 4,950

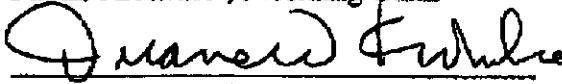
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Roger George Lindquist- Non-Public Arbitrator

Concurring Arbitrators:

Thomas J. Gmeinder, Esq.
Public Arbitrator, Presiding Chair



Duane W. Krohnke, Esq.
Public Arbitrator

Signature Date

10/14/04

Signature Date

Roger George Lindquist
Non-Public Arbitrator

Signature Date

10/18/04

Date of Service (NASD use only)

Respondent, Securities America, Inc., is liable for:

<u>Member Fees</u>	= \$ 3,550
<u>Total Fees</u>	= \$ 3,550
<u>Less payments</u>	= \$ 3,550
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0

Respondents, Securities America, Inc. Charles A. Blossom and Prestige Planning, Inc., are jointly and severally for:

<u>Forum Fees</u>	= \$ 4,950
<u>Total Fees</u>	= \$ 4,950
<u>Less payments</u>	= \$ 0
<u>Balance Due NASD Dispute Resolution</u>	= \$ 4,950

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Public Arbitrator, Presiding Chair

Signature Date

Duane W. Krohnke, Esq.
Public Arbitrator

Signature Date

Roger George Lindquist
Roger George Lindquist
Non-Public Arbitrator

Signature Date

10/18/04
Date of Service (NASD use only)

NASD Dispute Resolution, Inc.
RECEIVED
OCT 15 2004