

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Edward S. Hurwitz

and

Case Number: 03-05492
Hearing Site: Detroit, Michigan

Respondents

H&R Block Financial Advisors, Inc.,
and Ben Geller

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Edward S. Hurwitz ("Claimant") was represented by James R. Mann, Esq., Bal Harbour, Florida as of on or about October 6, 2004. Michael P. Marsalese, Esq., Marsalese Law Group, PLLC, Southfield, Michigan appeared as co-counsel for Claimant on or about June 28, 2005. Claimant was previously represented by David M. Black, Esq., Sommers, Schwartz, Silver & Schwartz, P.C., Southfield, Michigan from filing until on or about May 13, 2004.

H&R Block Financial Advisors, Inc. ("HRBFA") and Ben Geller ("Geller"), collectively referred to as "Respondents," were represented by Donald P. Wray, Jr., Esq., H&R Block Financial Advisors, Inc., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about July 25, 2003. The Submission Agreement of Claimant was signed on or about August 5, 2003.

The Statement of Answer was filed jointly by Respondents on or about August 5, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Michigan blue sky laws; negligence; unsuitability; violation of NASD rules; breach of contract; breach of fiduciary duty; and churning. The causes of action related to Claimant's allegation that Respondents usurped control of Claimant's brokerage account and embarked Claimant on a risky, speculative trading strategy using margin, and buying and selling unspecified "dot com" stocks on a frequent basis.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief may be granted; Claimant's claims are barred by the statute of frauds; Claimant's claims are barred by laches, waiver, estoppel and ratification; and economic, industry, corporate and market conditions were responsible for any losses.

RELIEF REQUESTED

Claimant requested an award in the amount of \$300,000.00 in compensatory damages, plus punitive damages of \$50,000.00, and interest, costs, attorneys' fees and any other relief the arbitrators deemed appropriate.

Respondents requested that the claims asserted against them be dismissed. Additionally, Respondent Geller requested that all references to this matter be expunged from his CRD records.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the statement of claim and appeared at the hearing are bound by the determination of the arbitration panel on all issues submitted.

At the conclusion of Claimant's case-in-chief, Respondents orally moved for dismissal. The panel granted the Motion to Dismiss at the hearing.

At the hearing, the parties agreed that Respondent Geller's CRD record should be expunged of all references to this matter.

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 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;

- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ben Geller's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Geller must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) 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 = \$ 300.00

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 Services, Inc.

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

Adjournment Fees

Adjournments requested during these proceedings:

March 8-10, 2005, adjournment requested by Respondent HRBFA = \$ 1,125.00
June 28-30, 2005, adjournment requested Respondent HRBFA = \$ 1,500.00

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

Respondents requested that the hearing dates of June 28-30, 2005, be adjourned on June 23, 2005. = \$ 300.00

Forum Fees and Assessments

The panel has assessed forum fees for each hearing session conducted and each decision rendered on a discovery-related motion on the papers. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) Pre-hearing sessions with panel x \$1,125.00	= \$ 5,625.00
Pre-hearing conferences:	
June 2, 2004	1 session
August 16, 2004	1 session
February 7, 2005	1 session
June 14, 2005	1 session
June 28, 2005	1 session
Two (2) Hearing sessions x \$1,125.00	= \$ 2,250.00
Hearing Date: January 10, 2006	2 sessions
Total Forum Fees	= \$ 7,875.00

The panel has assessed \$3,937.50 of the forum fees solely to Edward Hurwitz.

The panel has assessed \$3,937.50 of the forum fees solely to H&R Block Financial Advisors, Inc.

Fee Summary

Claimant, Edward Hurwitz, is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 2,125.00
Three-Day Cancellation Fee	= \$ 200.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 6,562.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 5,137.50

Respondent, H&R Block Financial Advisors, Inc., is liable for:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 500.00
Three-Day Cancellation Fee	= \$ 100.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 9,737.50
Less payments	= \$ 5,675.00
Balance Due NASD Dispute Resolution	= \$ 4,062.50

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

ARBITRATORS

Stewart C.W. Weiner, Esq. - Public Arbitrator, Presiding Chair
Marvin I. Horowitz, Esq. - Public Arbitrator
Peter S. Viviano - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Stewart C.W. Weiner, Esq.
Stewart C.W. Weiner, Esq.
Public Arbitrator, Presiding Chair

01/12/06
Signature Date

/s/ Marvin I. Horowitz, Esq.
Marvin I. Horowitz, Esq.
Public Arbitrator

01/11/06
Signature Date

Peter S. Viviano
Non-Public Arbitrator

Signature Date

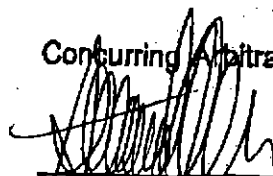
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Date of Service (For NASD office use only)

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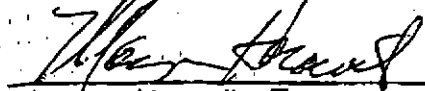
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