

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joseph R. Bybee and Carole F. Bybee (Claimants) v. American Express Financial Advisors, Inc.
and Barbara Wallis (Respondents)

Case Number: 03-09116

Hearing Site: Cleveland, Ohio

Nature of the Dispute: Customers v. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Joseph R. Bybee ("J. Bybee") and Carole F. Bybee ("C. Bybee") hereinafter collectively referred to as "Claimants": Dennis J. Concilla, Esq., Carlile Patchen & Murphy, LLP, Columbus, OH.

Respondents American Express Financial Advisors, Inc. ("AEFA") and Barbara Wallis ("Wallis") hereinafter collectively referred to as "Respondents": Carl J. Rychcik, Esq. and Joshua Horn, Esq., Fox Rothschild, LLP, Pittsburgh, PA.

CASE INFORMATION

Statement of Claim filed on or about: December 24, 2003.
Claimants signed the Uniform Submission Agreement.

Joint Statement of Answer, Motion to Dismiss Annuity Based Claims, and Motion to Transfer Location of Arbitration Hearing filed by Respondents on or about: March 12, 2004.
Respondent AEFA signed the Uniform Submission Agreement: January 21, 2004.
Respondent Wallis signed the Uniform Submission Agreement: January 23, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; negligence; and failure to supervise. The causes of action relate to mutual funds and annuities.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$409,618.30; recovery of out-of-pocket losses and costs, including expert fees and all forum fees; and such other and further relief

as the Panel deems just, proper, and equitable.

Respondents requested an award in their favor and against Claimants, together with such other relief that the Arbitrators may deem just and proper. Furthermore, Respondents requested that Claimants' claims relating to the annuities be dismissed and that the arbitration of this matter be transferred from Cleveland, Ohio to Pittsburgh, PA.

OTHER ISSUES CONSIDERED AND DECIDED

Mediation was coordinated among the parties and conducted on February 14, 2005. At the mediation, the parties agreed to settle this dispute.

On or about February 24, 2005, Claimants notified NASD Dispute Resolution that they dismissed their claims against Respondent Wallis.

On or about March 9, 2005, the parties notified NASD Dispute Resolution that they fully and finally settled all claims. Therefore, the parties submit this Stipulated Award to the Panel for its consideration.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The listed parties have amicably resolved their differences and have requested this Stipulated Award.
2. Claimants' claims against Respondent Wallis are dismissed with prejudice, and upon confirmation of the agreed upon settlement, Claimants claims against Respondent AEFA are also dismissed with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Barbara Wallis' 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 Barbara Wallis must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

4. 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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, American Express Financial Advisors, Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: July 9, 2004 1 session	
Total Forum Fees	= \$1,125.00

1. The Panel assessed \$562.50 of the forum fees jointly and severally against Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$1,425.00
Refund Due Claimants	= \$ 562.50

2. Respondent AEFA is solely liable for:

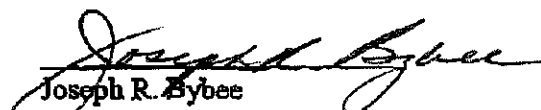
<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

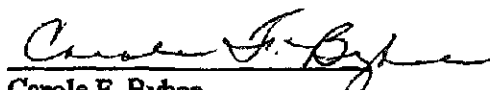
<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures


Joseph R. Bybee
Claimant

4/2/05
Signature Date


Carole F. Bybee
Claimant

4/2/05
Signature Date

American Express Financial Advisors, Inc.
Respondent

Signature Date

Barbara Wallis
Respondent

Signature Date


Parties' Signatures

Joseph R. Bybee
Claimant

Signature Date

Carole F. Bybee
Claimant

Signature Date


American Express Financial Advisors, Inc.
Respondent

Signature Date

Barbara Wallis
Respondent

Signature Date

Parties' Signatures

Joseph R. Bybee
Claimant


Signature Date

Carole F. Bybee
Claimant

Signature Date

American Express Financial Advisors, Inc.
Respondent

Signature Date


Barbara Wallis
Respondent

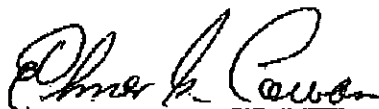

Signature Date

ARBITRATION PANEL

Elmer G. Cowan, Esq.	-	Public Arbitrator, Presiding Chair
James Dale Ellis, J.D.	-	Public Arbitrator
Dennis W. Zauszniewski	-	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 is which is my award.



Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chair

APR 18 2005

Signature Date

James Dale Ellis, J.D.
Public Arbitrator

Signature Date

Dennis W. Zauszniewski
Non-Public Arbitrator

Signature Date

April 28, 2005

Date of Service (For NASD office use only)

ARBITRATION PANEL


Elmer G. Cowan, Esq.	-	Public Arbitrator, Presiding Chair
James Dale Ellis, J.D.	-	Public Arbitrator
Dennis W. Zauszniewski	-	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.

Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chair

Signature Date



James Dale Ellis, J.D.
Public Arbitrator

4/14/05

Signature Date

Dennis W. Zauszniewski
Non-Public Arbitrator

Signature Date

April 28, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Elmer G. Cowan, Esq.	-	Public Arbitrator, Presiding Chair
James Dale Ellis, J.D.	-	Public Arbitrator
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Concurring Arbitrators' Signatures

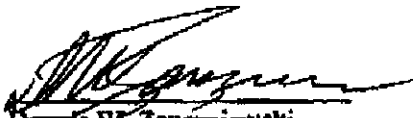
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Elmer G. Cowan, Esq.
Public Arbitrator, Presiding Chair

Signature Date

James Dale Ellis, J.D.
Public Arbitrator

Signature Date



Dennis W. Zauszniewski
Non-Public Arbitrator

4-15-05

Signature Date

April 28, 2005
Date of Service (For NASD office use only)