

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Nina Frankel (Claimant) v. Carillon Investments, Inc. and Scott V. Payden (Respondents)

Case Number: 04-00399

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimant Nina Frankel ("Frankel") hereinafter referred to as "Claimant": Jonathan E. Rosenbaum, Esq., Elyria, OH.

Respondents Carillon Investments, Inc. ("Carillon") and Scott V. Payden ("Payden") hereinafter collectively referred to as "Respondents": Nicholas D. Satullo, Esq., Reminger & Reminger Co., L.P.A., Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: January 16, 2004.

Claimant signed the Uniform Submission Agreement: January 12, 2004.

Joint Statement of Answer filed by Respondents on or about: April 8, 2004.

Respondent Carillon signed the Uniform Submission Agreement: April 16, 2004.

Respondent Payden signed the Uniform Submission Agreement: April 12, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; misrepresentation; negligence and breach of fiduciary duty; and failure to supervise. The causes of action relate to American Skandia Var. Annuity, Am. Skandia Jan Cap Growth "B", Idex JCC Global "B", Idex JCC Growth "B", Janus Growth, Janus Midcap Growth, AST Founders Passport, and Alger All-Cap Growth.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$357,212.54, plus interest, or the amount of money lost as a result of reinvesting prudently invested funds; rescission; punitive damages in the amount of \$100,000.00; expenses, including attorneys' fees; and any other relief that the Panel deems fair and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable and shall pay to Claimant \$11,000.00 as compensatory damages.
2. Claimant's claim for rescission is denied.
3. The Panel assessed the total forum fees jointly and severally against the Respondents.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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. Accordingly, Carillon Investments, Inc. is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: August 13, 2004 1 session	
One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: June 14, 2004 1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: November 8, 2004 2 sessions	
November 9, 2004 2 sessions	
November 10, 2004 2 sessions	
Total Forum Fees	= \$8,325.00

1. The Panel assessed the forum fees of \$8,325.00 jointly and severally against the Respondents.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
Refund Due to Claimant	= \$1,125.00

- Respondent Carillon is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$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>	= \$8,325.00
Total Fees	= \$8,325.00
<u>Less payments</u>	= \$3,500.00
Balance Due NASD Dispute Resolution	= \$4,825.00

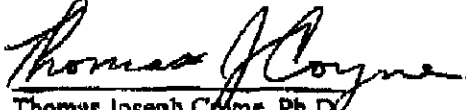
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Thomas Joseph Coyne, Ph.D	-	Public Arbitrator, Presiding Chairperson
Douglas Andrew Kutsko, Esq.	-	Public Arbitrator
Robert M. Shwab	-	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 which is my award.


Thomas Joseph Coyne, Ph.D.
Public Arbitrator, Presiding Chairperson

11/18/04
Signature Date

Douglas Andrew Kutsko, Esq.
Public Arbitrator

Signature Date

Robert M. Shwab
Non-Public Arbitrator

Signature Date

November 19, 2004

Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

Signature Date



Douglas Andrew Kutsko, Esq.
Public Arbitrator

11-15-04

Signature Date

Robert M. Shwab
Non-Public Arbitrator

Signature Date

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Signature Date

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Public Arbitrator

Signature Date



Robert M. Shwab
Non-Public Arbitrator

Signature Date

November 19, 2004

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