

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Patricia Dickey and Gordon Dickey
and

Case Number: 04-01090
Hearing Site: Troy, Michigan

Respondents

H&R Block Financial Advisors, Inc. and
Richard D. Gurchak

NATURE OF DISPUTE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Patricia Dickey and Gordon Dickey ("Claimant") was represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Anthony V. Trogan, P.L.L.C., West Bloomfield, Michigan.

H&R Block Financial Advisors, Inc. ("Respondent") and Richard D. Gurchak ("Respondent") were represented by Howard F. Klausmeier, Esq., H&R Block Financial Advisors, Inc., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about February 19, 2004. The Submission Agreement of Patricia Dickey and Gordon Dickey was signed on or about February 3, 2004.

The Statement of Answer was filed jointly by HRBFA and Gurchak on or about April 14, 2004. The Submission Agreement of HRBFA was signed on or about March 10, 2004, by David C. Andrew. The Submission Agreement of Gurchak was signed on or about March 26, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; common law fraud; conspiracy; promissory estoppel; conversion; negligence; malpractice; breach of fiduciary duty; and breach of Michigan securities law. The causes of action related to the recommendation and purchase of allegedly high-risk, overlapping products including AIM Premier Equity Mutual Fund, Evergreen Blue Chip Mutual Fund, and AIMI Opportunities Mutual Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants have failed to state a claim on which relief may be granted; Claimants' claims are barred by laches, waiver, estoppel and ratification; and Respondents' obligations to Claimants have been fully satisfied and discharged.

RELIEF REQUESTED

Claimant requested an award in the amount of \$66,840.00 as out-of-pocket losses, interest, costs, attorneys' fees, punitive/exemplary damages, rescission and additional damages as allowed by the panel.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded their costs and attorneys' fees, and that this matter be expunged from Respondent Gurchak's CRD record.

OTHER ISSUES CONSIDERED & DECIDED

After the close of Claimants' case, Respondents moved for dismissal. The panel denied the motion.

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(s) 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.) Claimants' claims, each and all, are denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Richard D. Gurchak's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Richard D. Gurchak must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; 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 = \$ 225.00

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 Advisors, Inc.

Member surcharge = \$ 1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 1,700.00

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 Panel x \$750.00 = \$ 750.00

Pre-hearing conference: August 17, 2004 1 session

Four (4) Hearing sessions x \$750.00 = \$ 3,000.00

Hearing Dates: June 14, 2005 2 sessions

June 15, 2005 2 sessions

Total Forum Fees = \$ 3,750.00

The Arbitration Panel has assessed \$1,875.00 of the forum fees jointly and severally to Patricia Dickey and Gordon Dickey.

The Arbitration Panel has assessed \$1,875.00 of the forum fees jointly and severally to H&R Block Financial Advisors, Inc., and Richard D. Gurchak.

Fee Summary

Claimants, Patricia Dickey and Gordon Dickey, are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Total Fees	= \$ 2,100.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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

<u>Member Fees</u>	<u>= \$ 3,550.00</u>
Total Fees	= \$ 3,550.00
<u>Less payments</u>	<u>= \$ 3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, H&R Block Financial Advisors, Inc. and Richard D. Gurchak, are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Total Fees	= \$ 1,875.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,875.00

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

ARBITRATION PANEL

William D. Keller - Public Arbitrator, Presiding Chair
Jerome D. Sobczak - Public Arbitrator
Garrick A. Rollert, J.D. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ William D. Keller
William D. Keller
Public Arbitrator, Presiding Chair

06/16/05
Signature Date

/s/ Jerome D. Sobczak
Jerome D. Sobczak
Public Arbitrator

06/16/05
Signature Date

/s/ Garrick A. Rollert
Garrick A. Rollert, J.D.
Non-Public Arbitrator

06/16/05
Signature Date

06/16/05
Date of Service (For NASD office use only)

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