

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Susan Whicheloe Keitges

and

04-01638
Phoenix, Arizona

Name of Respondents

D.A. Davidson & Co.
Ron A. Lusk

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

REPRESENTATION OF PARTIES

Susan Whicheloe Keitges ("**Claimant**") appeared *pro se*.

D.A. Davidson & Co. ("**Respondent D.A. Davidson**") and Ron A. Lusk ("**Respondent Lusk**") (collectively as "**Respondents**") were represented by Brian J. Meenaghan, Esq., Lane, Powell, Spears, Lubersky, LLP, Seattle, Washington.

Ron A. Lusk appeared telephonically.

CASE INFORMATION

The Statement of Claim was filed on or about March 9, 2004. Reply to Respondents' Statement of Answer was filed on or about May 7, 2004. Submission Agreement of Claimant Susan Whicheloe Keitges was signed on or about February 20, 2004.

Joint Statement of Answer was filed by Respondents' D.A. Davidson & Co. and Ron A. Lusk on or about April 23, 2004. Submission Agreement of Respondent D.A. Davidson & Co. was signed on or about April 16, 2004.

CASE SUMMARY

Claimant alleged that:

D.A. Davidson did not supervise or monitor Mr. Lusk in any way, allowing him to make inappropriate and unsuitable investments without my authorization. I received negligent and misrepresentation concerning my investments, false information concerning the free airline ticket, material omissions and misstatements, omission of the facts, false information regarding my stock gains, trading without authorization, breach of good faith and negligent intentional infliction of emotional stress. This was intentional misconduct by Mr. Lusk and D.A. Davidson could have corrected this situation if it had competently supervised Mr. Lusk.

In the 14 months since Mr. Lusk's termination from D.A. Davidson they have completely ignored me as a client and done absolutely nothing to rectify my appalling treatment or help salvage my investments that I gave in trust to their company.

Claimant's allegations relate to transactions in various stocks and annuities.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

In sum, Davidson and Mr. Lusk deny they engaged in any unauthorized transactions, deny they breached any fiduciary duty to claimant, deny they were negligent or made any misrepresentations or omitted any material facts, deny that Davidson failed to supervise Mr. Lusk, and deny that they are liable to Ms. Keitges for any damages.

RELIEF REQUESTED

Claimant requested an award in the amount of 25,000.00 in compensatory damages, plus punitive damages, interest, costs, and attorney's fees.

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

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 the NASD Dispute Resolution (the "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 D.A. Davidson and Ron A. Lusk shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan Whicheloe Keitges the sum of \$20,000.00 (**Twenty Thousand Dollars and No Cents**) as compensatory damages.
2. Interest at the rate of 10% per annum is awarded on the above stated sum from and inclusive of November 12, 2004.
3. Respondents D.A. Davidson and Ron A. Lusk shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan Whicheloe Keitges the sum of \$2,172.65 (**Two Thousand One Hundred Seventy-Two Dollars and Sixty-Five Cents**) as attorney's fees. The authority for this award of attorney's fees is ARS § 12-341.01.
4. Respondents D.A. Davidson and Ron A. Lusk shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan Whicheloe Keitges the sum of \$125.00 (**One Hundred Twenty-Five Dollars and No Cents**) as costs.
5. Respondents D.A. Davidson and Ron A. Lusk shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan Whicheloe Keitges the sum of \$5,400.00 (**Five Thousand Four Hundred Dollars and No Cents**) as witness fees and \$247.18 (**Two Hundred Forty-Seven and Eighteen Cents**) as other damages.
6. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
7. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

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 = \$125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is D.A. Davidson & Co.

Member surcharge	\$	425.00
Total Member Fees	\$	425.00

Adjournment Fees

Adjournments requested during these proceedings:

November 3-5, 2004, adjournment requested by Respondent Ron A. Lusk = \$450.00

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:

6 Hearing sessions	x	450.00	\$	2,700.00
November 9, 2004	2 sessions			
November 10, 2004	2 sessions			
November 12, 2004	2 sessions			
Total Forum Fees			\$	2,700.00

The Arbitration Panel has assessed \$2,700.00 of the forum fees jointly and severally to D.A. Davidson & Co. and Ron A. Lusk.

Fee Summary

Claimant, Susan Whicheloe Keitges, shall be and hereby is liable for:

Initial Filing Fee	= \$	125.00
Total Fees	= \$	125.00
<u>Less payments</u>	= \$	-575.00
Balance to be refunded by NASD Dispute Resolution	= \$	- 450.00

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Respondent, D.A. Davidson & Co. and Ron A. Lusk, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	2,700.00
<u>Total Fees</u>	= \$	2,700.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	2,700.00

Respondent, D.A. Davidson & Co. shall be and hereby is liable for:

<u>Member Fees</u>	= \$	425.00
<u>Total Fees</u>	= \$	425.00
<u>Less payments</u>	= \$	-425.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent, Ron A. Lusk shall be and hereby is liable for:

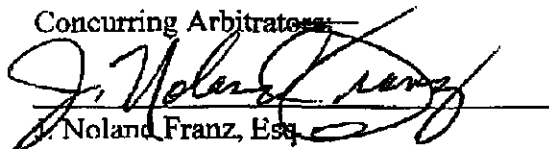
<u>Adjournment Fee</u>	= \$	450.00
<u>Total Fees</u>	= \$	450.00
<u>Less payments</u>	= \$	-450.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

J. Noland Franz, Esq. - Public Arbitrator, Presiding Chair

Concurring Arbitrators:


J. Noland Franz, Esq.
Public Arbitrator, Presiding Chair

11/18/04
Signature Date

Date of Service (For NASD office use only)