

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Donald T. Giles, Jr.
Cherie L. Giles

Case Number: 04-01659

Names of the Respondents

Hefren-Tillotson, Inc.
Vincent Ross, Jr.
Mark A. Battaline

Hearing Site: Pittsburgh, Pennsylvania

Nature of the Dispute: Customers vs. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants, Donald T. Giles, Jr. and Cherie L. Giles, hereinafter collectively referred to as "Claimants", represented themselves at the hearing.

Respondents, Hefren-Tillotson, Inc. ("Hefren-Tillotson"), Vincent Ross, Jr. ("Ross") and Mark A. Battaline ("Battaline"), hereinafter collectively referred to as "Respondents", were represented by Denis C. Dice, Esq., Marshall, Dennehey, Warner, Coleman, and Goggin, P.C., Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on March 8, 2004.

Claimants signed the Uniform Submission Agreement on March 8, 2004.

Preliminary Answer, Legal Analysis and Affirmative Defenses filed by Respondents on June 24, 2004.

A representative of Respondent Hefren-Tillotson executed the Uniform Submission Agreement on May 18, 2004.

Respondent Ross signed the Uniform Submission Agreement on July 10, 2004.

Respondent Battaline signed the Uniform Submission Agreement on July 12, 2004.

CASE SUMMARY

Claimants, in their Statement of Claim asserted the following causes of action, among others: breach of contract, negligence, misrepresentation, and suitability. The causes of action relate to the purchase and sale of unspecified mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; ratification; any alleged losses were the result of conditions beyond Respondents' control; there were no misrepresentations or omissions of fact upon which

Claimants could have reasonably relied to their detriment; statutes of limitations; assumption of risk; failure to exercise due diligence; contributory and/or comparative negligence; estoppel; Claimants' claims are barred by the doctrines of laches or unclean hands; there is no private right of action for alleged violations of NASD rules; and failure to mitigate damages.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 110,759.07
Other Costs	amount unspecified

Respondents in their Preliminary Answer, Legal Analysis and Affirmative Defenses requested that the Arbitration Panel (the "Panel") deny Claimants' claims with prejudice and assess all fees and costs to Claimants. Respondents also requested that this matter be expunged from Respondents Ross and Battaline's records maintained at NASD's Central Registration Depository.

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, 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. Claimants' claims are denied in their entirety;
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondents Ross and Battaline's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondents Ross and Battaline must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to NASD Rule 2130, the Panel has made the following affirmative findings of fact: The claim, allegation, or information is false.

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and

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	waived
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Hefren-Tillotson 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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 19 – 21, 2005, adjournment by Respondents = \$ 1,125.00

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel @ \$ 1,125.00 = \$ 2,250.00

Pre-hearing conferences:

October 21, 2004	1 session
November 8, 2004	1 session

Four (4) Hearing sessions @ \$ 1,125.00		= \$ 4,500.00
Hearing Dates:	May 24, 2005	2 sessions
	May 25, 2005	2 sessions

Total Forum Fees = \$ 6,750.00

1. The Panel has assessed \$ 2,812.50 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 3,937.50 of the forum fees to jointly and severally to Respondents.

FEE SUMMARY

Claimants are jointly and severally assessed and shall pay

<u>Forum Fees</u>	= \$ 2,812.50
<u>Total Fees</u>	= \$ 2,812.50
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,812.50

Respondent, Hefren-Tillotson, is assessed and shall pay:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,200.00

Respondents, Hefren-Tillotson, Ross, and Battaline, are jointly and severally assessed and shall pay:

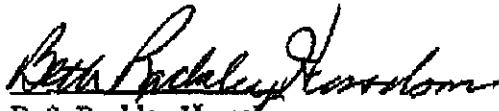
<u>Forum Fees</u>	= \$ 3,937.50
<u>Adjournment Fees</u>	= \$ 1,125.00
<u>Total Fees</u>	= \$ 5,062.50
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,062.50

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

ARBITRATION PANEL

Beth Rackley Hesselson	-	Public Arbitrator, Presiding Chairperson
Michael R. Stabile, Jr., Esq.	-	Public Arbitrator, Panelist
Michael D. Neft	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures


Beth Rackley Hession
Public Arbitrator, Presiding Chairperson

6-2-05
Signature Date

Michael R. Stabile, Jr., Esq.
Public Arbitrator, Panelist

Signature Date

Michael D. Neft
Non-Public Arbitrator, Panelist

Signature Date

June 16, 2005
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Beth Rackley Hesselson
Public Arbitrator, Presiding Chairperson

Signature Date

Michael R. Stabile, Jr.
Michael R. Stabile, Jr., Esq.
Public Arbitrator, Panelist

6-3-05
Signature Date

Michael D. Neft
Non-Public Arbitrator, Panelist

Signature Date

June 6, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Beth Rackley Hesselson
Public Arbitrator, Presiding Chairperson

Signature Date

Michael R. Stabile, Jr., Esq.
Public Arbitrator, Panelist

Signature Date



Michael D. Neft
Non-Public Arbitrator, Panelist

6/2/05

Signature Date

June 6, 2005

Date of Service (For NASD Dispute Resolution office use only)