

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Silveo A. Iorio (Claimant) vs. Fisher Investments, Inc., Chris Rushton, Charles Schwab & Co., Inc. and Casey D. Ryan (Respondents)

Case Number: 04-02335

Hearing Site: Albany, New York

Nature of the Dispute: Customer vs. Non-Member, Member and Associated Persons

REPRESENTATION OF PARTIES

Claimant Silveo A. Iorio hereinafter referred to as "Claimant": James L. Sonneborn, Esq., Sonneborn, Spring & O'Sullivan, P.C., Syracuse, NY.

Respondents Fisher Investments, Inc. ("Fisher") and Chris Rushton ("Rushton"): Bruce Lewitas, Esq., Lewitas & May, Chicago, IL. Previously represented by Douglas H. Young, Melvin & Melvin PLLC, Syracuse, NY.

Respondents Charles Schwab & Co., Inc. ("Charles Schwab") and Casey D. Ryan ("Ryan"): Sean B. Meehan, Esq., Charles Schwab & Co., Inc., San Francisco, CA.

CASE INFORMATION

Statement of Claim filed on or about: March 31, 2004.

Claimant signed the Uniform Submission Agreement: June 16, 2004.

Joint Statement of Answer filed by Respondents Fisher and Rushton on or about: July 13, 2004.

Fisher signed the Uniform Submission Agreement: May 28, 2004.

Rushton signed the Uniform Submission Agreement: August 2, 2004.

Joint Statement of Answer filed by Respondents Charles Schwab and Ryan on or about: June 16, 2004.

Charles Schwab signed the Uniform Submission Agreement: June 16, 2004.

Ryan signed the Uniform Submission Agreement: June 16, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach fiduciary duty, churning, misrepresentations and omissions, breach of contract, breach of duty to "know the customer", failure to supervise, unsuitability, violation of Section 10b-5 of the Securities Exchange Act of

1934, liability under Section 20(a) of the Securities Exchange Act of 1934 and respondeat superior. The causes of action relate to technology stocks.

Unless specifically admitted in their Answer, Fisher and Rushton denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in their Answer, Charles Schwab and Ryan denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00, plus interest, the amount represents the principal and interest which was lost, the excessive commissions, administrative fees, management fees, and other unnecessary costs which were assessed as a result of the improper investments. Claimant also request that he be awarded the amount representing any and all early withdrawal fees or penalties from Fisher, plus interest, punitive damages, reasonable attorneys' fees, costs, and such other, further, and different relief as the arbitration panel deems just and proper.

Fisher and Rushton requested dismissal of the Statement of Claim in its entirety.

Charles Schwab and Ryan requested dismissal of the Statement of Claim in its entirety, expungement of Ryan's CRD records, costs and such other relief as provided by law.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondent Fisher Investments, Inc. made a Motion for Directed Verdict at the end of Claimant's case. After due deliberation, 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.

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. Claimant's claims are hereby denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Chris Rushton's 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 Chris Rushton must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Casey D. Ryan's 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 Casey D. Ryan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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 event giving rise to the dispute. Accordingly, Charles Schwab & Co., Inc. is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 2-4, 2005 and February 9-11, 2005 = Waived

Adjournment by Claimant and Respondents

October 25-28, 2005 and December 15 - 16, 2005 = Waived

Adjournment by Claimant and Respondents

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

October 25-28, 2005 and December 15, 2005 = Waived

Adjournment by Claimant and Respondents Charles Schwab and Fisher

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

Three (3) Pre-hearing sessions with Panel @ \$1,125.00/session = \$ 3,375.00

Pre-hearing conferences: October 22, 2004 1 session

March 9, 2005 1 session

December 15, 2005 1 session

Five (5) Hearing sessions with Panel @ \$1,125.00/session	= \$ 5,625.00
Hearing Dates:	
March 29, 2006	2 sessions
March 30, 2006	1 session
March 31, 2006	2 sessions
<hr/> Total Forum Fees	<hr/> = \$ 9,000.00

1. The Panel has assessed \$9,000.00 of the forum fees solely to Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 9,000.00
<hr/> Total Fees	<hr/> = \$ 9,300.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 7,875.00

2. Respondent Charles Schwab & Co., Inc. is solely liable for:

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

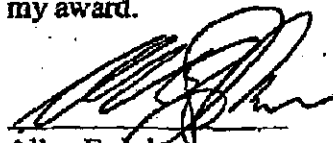
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Allan E. Johnson	-	Public Arbitrator, Presiding Chairperson
Jennifer L. Bliss, Esq.	-	Public Arbitrator
Catherine Ladnier	-	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.



Allan E. Johnson
Public Arbitrator, Presiding Chairperson

4/7/06
Signature Date

Jennifer L. Bliss, Esq.
Public Arbitrator

Signature Date

Catherine Ladnier
Non-Public Arbitrator

Signature Date

April 12, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

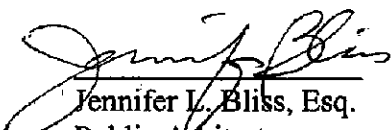
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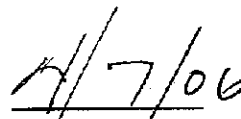
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Allan E. Johnson
Public Arbitrator, Presiding Chairperson

Signature Date



Jennifer L. Bliss, Esq.
Public Arbitrator



Signature Date

Catherine Ladnier
Non-Public Arbitrator

Signature Date

April 12, 2006

Date of Service (For NASD Dispute Resolution use only)

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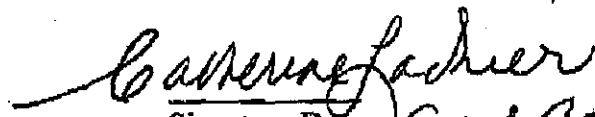
Allan E. Johnson
Public Arbitrator, Presiding Chairperson

Signature Date

Jennifer L. Bliss, Esq.
Public Arbitrator

Signature Date

Catherine Ladnier
Non-Public Arbitrator


Signature Date April 7, 2006

April 12, 2006
Date of Service (For NASD Dispute Resolution use only)