

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Winslow B. Schurman, Jr. (Claimant) vs. Commonwealth Financial Network, Eugene E. Ellison and Priscilla Hollenbeck (Respondents)

Case Number: 04-02854

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant Winslow B. Schurman, Jr., hereinafter referred to as "Claimant": Richard M. Gelb, Esq., Gelb & Gelb LLP, Boston, MA.

Respondents Commonwealth Financial Network ("Commonwealth"), Eugene E. Ellison ("Ellison"), and Priscilla Hollenbeck ("Hollenbeck"), hereinafter collectively referred to as "Respondents": Thomas G. Nicholson, Esq., Finneran & Nicholson, P.C., Newburyport, MA.

CASE INFORMATION

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

Amended Statement of Claim filed on or about: April 27, 2004.

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

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

Respondent Commonwealth signed the Uniform Submission Agreement: April 27, 2004.

Respondent Ellison signed the Uniform Submission Agreement: July 8, 2004.

Respondent Hollenbeck signed the Uniform Submission Agreement: July 3, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; negligence, violations of the securities law, rules and regulations, failure to supervise, and omissions under the doctrine of respondeat superior. The causes of action relate to domestic mutual funds, international mutual funds, bonds, cash, and trading activity in the account that represented a violation of trading practices.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$161,555.38 for losses in the Commonwealth account, compensatory damages in the amount of \$133,815.99 for losses in the Ameritrade account, punitive damages, interest and costs.

Respondents requested that the Amended Statement of Claim be dismissed in its entirety, that Respondents be awarded their costs and fees incurred in defending this arbitration, and that the Panel awards such other and further relief as it deems necessary, just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondents requested that the Panel waive the adjournment fee assessed in connection with the November 29 - December 1, 2005 adjournment request. After due deliberation, the Panel granted the request.

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. Respondent Commonwealth Financial Network is liable for and shall pay to Claimant compensatory damages in the amount of \$20,000.00.
2. 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
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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 firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Commonwealth Financial Network, Inc. is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 2-5, 2005 joint adjournment request by all parties	=	Waived
September 26-29, 2005 joint adjournment request by all parties	=	Waived
November 29-30 and December 1, 2005, adjournment by Respondents	=	Waived

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:

November 29-30 and December 1, 2005, adjournment by Respondents	= \$ 300.00
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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:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: September 21, 2004	1 session

Sixteen (16) Hearing sessions @ \$1,125.00	= \$18,000.00
Hearing Dates:	
February 1, 2006	2 sessions
February 9, 2006	2 sessions
April 10, 2006	2 sessions
April 25, 2006	2 sessions
April 26, 2006	2 sessions
May 16, 2006	2 sessions
May 17, 2006	2 sessions
September 5, 2006	2 sessions

Total Forum Fees	= \$19,125.00
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1. The Panel has assessed \$9,562.50 of the forum fees to Claimant.
2. The Panel has assessed \$9,562.50 of the forum fees to Respondent Commonwealth.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 9,562.50
Total Fees	= \$ 9,862.50
Less payments	= \$ 1,425.00

Balance Due NASD Dispute Resolution = \$ 8,437.50

2. Respondent Commonwealth is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 9,562.50
<u>Total Fees</u>	<u>= \$14,762.50</u>
<u>Less payments</u>	<u>= \$ 6,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,062.50

3. Respondents Commonwealth, Ellison and Hollenbeck are jointly and severally liable for:

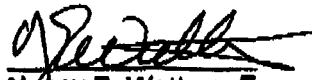
Forum Fees	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	<u>= \$ 300.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Nancy E. Watters, Esq.	-	Public Arbitrator, Presiding Chairperson
Bennett Fisch	-	Public Arbitrator
Iris Taymore Schintzer, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Nancy E. Watters, Esq.
Public Arbitrator, Presiding Chairperson

9/7/06
Signature Date

Bennett Fisch
Public Arbitrator

Signature Date

Iris Taymore Schintzer, Esq.
Non-Public Arbitrator

Signature Date

September 12, 2006

Date of Service (For NASD Dispute Resolution use only)

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Bennett Fisch	-	Public Arbitrator
Iris Taymore Schintzer, Esq.	-	Non-Public Arbitrator

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Public Arbitrator

9/12/06
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