

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William R. Kranz and Margaret R. Kranz (Claimants) v. Securities Service Network, Inc.,
Alexander Chase Company, A. CH. Securities, Inc., David Svete, and Edmund B. Pearson
(Respondents)

Case Number: 04-03324

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimant William R. Kranz ("W. Kranz") and Margaret R. Kranz ("M. Kranz") hereinafter collectively referred to as "Claimants": Thomas C. Wagner, Esq., Van Deusen & Wagner, LLC, Cleveland, OH.

Respondent Securities Service Network, Inc. ("SSN"): Ronald T. Klimas, Vice President, Director of Compliance, Securities Service Network, Inc., Knoxville, TN.

Respondent Edmund B. Pearson ("Pearson") appeared *pro se*. Previously represented by: Ronald I. Raether, Esq., Faruki Ireland & Cox, P.L.L., Dayton, OH.

Respondent Alexander Chase Company ("Alexander Chase") did not enter an appearance in this matter.

Respondent A. CH. Securities, Inc. ("A. CH.") did not enter an appearance in this matter.

Respondent David Svete ("Svete") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: May 5, 2004.

Claimants signed the Uniform Submission Agreement: April 28, 2004 and May 26, 2004.

Statement of Answer and Motion to Dismiss filed by Respondent SSN on or about: May 25, 2004.

First Amended Statement of Answer filed by Respondent SSN on or about: September 20, 2004 and November 5, 2004.

Respondent SSN signed the Uniform Submission Agreement: May 26, 2004.

Statement of Answer filed by Respondent Pearson on or about: July 20, 2004.
Respondent Pearson signed the Uniform Submission Agreement: July 16, 2004.

Respondent Alexander Chase did not file a Statement of Answer or sign the Uniform Submission Agreement.

Respondent A. CH. did not file a Statement of Answer or sign the Uniform Submission Agreement.

Respondent Svete did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; misrepresentation; negligence; breach of fiduciary duty; negligent failure to supervise; respondeat superior; and breach of contract. The causes of action relate to viatical securities and variable annuities.

Unless specifically admitted in its Answer and its First Amended Answer, Respondent SSN denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Respondent Pearson denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$135,279.21; damages under the "well-managed portfolio" theory; punitive damages; costs; and attorneys' fees.

Respondent SSN requested that all claims be dismissed. In its Counterclaim against Claimant, SSN requested that Claimant assign all future rights in any distributions to SSN to the extent that any award is entered against SSN. In its Cross-Claim against Respondent Pearson, SSN requested that the Panel enforce the terms of Respondent Pearson's Registered Representative Agreement and enter an award for indemnification and costs.

Respondent Pearson requested that all claims asserted against him be dismissed in their entirety; that Claimants be required to pay all filing fees and forum fees; and any reference to this matter be expunged from Respondent Pearson's registration records maintained by the CRD.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondents Alexander Chase, A. CH., and Svete, and Pearson have been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Alexander Chase, A. CH., and Svete did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On or about January 24, 2005, Claimants notified NASD Dispute Resolution that a settlement was reached between themselves and Respondent SSN.

During the hearing, Claimants made a Motion to Amend the Statement of Claim to include a request for interest. After due deliberation, the Panel granted the Claimants' 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, and 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. Respondents Pearson, Svete, and A. CH. are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$70,183.94 for fraud and deceit on the viatical purchases.
2. Respondents Pearson, Svete, and A. CH. are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$25,000.00 for unsuitability for variable annuities.
3. Respondents Pearson, Svete, and A. CH. are jointly and severally liable for and shall pay to Claimants interest as follows: (a) on the \$70,183.94, interest at the rate of 10% to June 1, 2004; 4% from June 2, 2004 through December 31, 2004; and 5% from January 1, 2005 through December 31, 2005, until the interest rate is changed pursuant to RC 1343.03; (b) on the \$25,000.00, interest at the rate of 5% per annum from the date of the award through the date of payment of the award until the interest rate is changed pursuant to RC 1343.03.
4. Respondents Pearson, Svete, and A. CH. are jointly and severally liable for and shall pay to Claimants punitive damages in the amount of \$25,000.00, in accordance with RC 2315.21, Columbus Finance, Inc. v. Howard, 4205 3d 178, 327 NE 2d 654; Calmes v. Goodyear Tire and Rubber Co, 575 NE 2d 416 61 05 3d 470 (1991) – punish for actual malice; Arbitrators found “actual malice” by Respondents in sale of non-existent viatical policies to Claimants; Preston v. Morty, 3205 3d 334, 512 NE 2d 1174 (1987).
5. Any and all relief not specifically addressed herein 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
SSN's Cross-claim filing fee	= \$1,000.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Securities Service Network, Inc. is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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: November 4, 2004 1 session	

One (1) Hearing session @ \$1,125.00	= \$1,125.00
Hearing Date: April 5, 2005 1 session	
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$2,250.00 of the forum fees jointly and severally against Respondents Pearson, Svete, and A. CH.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
Refund Due Claimants	= \$1,125.00

2. Respondent SSN is solely liable for:

Cross-Claim Filing Fee	= \$1,000.00
<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$6,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$1,000.00

3. Respondents Pearson, Svete, and A. CH. are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,250.00
-------------------	--------------

NASD Dispute Resolution

Arbitration No. 04-03324

Award Page 5 of 6

Total Fees	= \$2,250.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

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

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

ARBITRATION PANEL

Jason C. Blackford, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert M. Lustig	-	Public Arbitrator
Jay S. Ferrier	-	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.

Jason C. Blackford, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Robert M. Lustig
Public Arbitrator

4-7-05

Signature Date

Jay S. Ferrier
Non-Public Arbitrator

Signature Date

April 13, 2005

Date of Service (For NASD Dispute Resolution use only)

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

ARBITRATION PANEL

Jason C. Blackford, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert M. Lustig	-	Public Arbitrator
Jay S. Ferrier	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

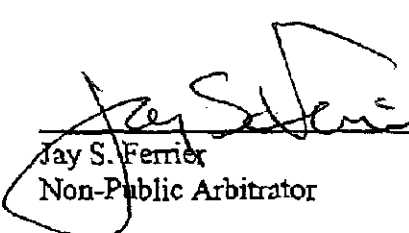
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Jason C. Blackford, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert M. Lustig
Public Arbitrator

Signature Date



Jay S. Ferrier
Non-Public Arbitrator

Signature Date

April 13, 2005

Date of Service (For NASD Dispute Resolution use only)

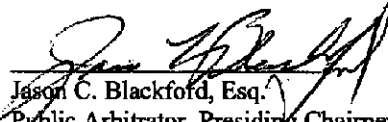
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jason C. Blackford, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert M. Lustig	-	Public Arbitrator
Jay S. Ferrier	-	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.



Jason C. Blackford, Esq.
Public Arbitrator, Presiding Chairperson

4/13/05

Signature Date

Robert M. Lustig
Public Arbitrator

Signature Date

Jay S. Ferrier
Non-Public Arbitrator

Signature Date

April 13, 2005

Date of Service (For NASD Dispute Resolution use only)