
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Terrie R. Dileo
Joseph R. Dileo
Joseph R. Dileo, IRA

Case Number: 04-03628

Names of the Respondents

American Express Financial Advisors, Inc.
A. Blythe Miller

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Terrie R. Dileo, Joseph R. Dileo and Joseph R. Dileo, IRA, hereinafter collectively referred to as "Claimants", Ralph J. Feith, Oldsmar, Florida.

For American Express Financial Advisors, Inc. ("AEFA") and A. Blythe Miller ("Miller"), hereinafter collectively referred to as "Respondents": Neils P. Murphy, Esq., Murphy & Anderson, P.A., Jacksonville, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 18, 2004.

Claimants signed the Uniform Submission Agreement: May 18, 2004.

Motion to Stay Arbitration, Motion to Dismiss, Motion for More Definite Statement of Answer, Statement of Answer, and Defenses and Affirmative Defenses filed by Respondents on or about: August 18, 2004.

Respondent AEFA signed the Uniform Submission Agreement: July 20, 2004.

Respondent Miller signed the Uniform Submission Agreement: July 21, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: 1) unsuitability; 2) negligence; and 3) failure to disclose risk. The causes of action relate to investments in equities in the Roger Engermann Wealth Management Account.

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

RELIEF REQUESTED

Claimants requested: 1) rescission; 2) compensatory damages in the amount of \$233,878.00; 3)

interest; 3) costs; 4) alternatively, compensatory damages in the amount of \$79,551.00 for out-of-pocket losses; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal, with prejudice, of Claimants' claims in their entirety; and 2) assessment of all forum fees and costs against Claimants.

Respondent Miller further requested: 1) recommendation of expungement of all reference to the above captioned arbitration from Respondent Miller's registration records maintained by the NASD Central Registration Depository ("CRD"); and 2) attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 21, 2004, Claimants filed their notice of withdrawal, without prejudice, of the annuities portion of the Statement of Claim. On or about November 6, 2004, Claimants filed their Motion to Amend wherein Claimants moved to delete, without prejudice, the annuities portion of the Statement of Claim. On or about November 17, 2004, Respondents filed their response and lack of objection to Claimants' motion. On or about November 23, 2004, the Panel granted Claimant's motion.

On or about July 13, 2004, Claimants filed their Motion to Delay Hearing Date, Additional Discovery and Mediation. On or about July 25, 2005, Respondents filed their opposition to Claimants' motion. On or about July 29, 2005, Claimants filed their reply to Respondents' opposition. On or about August 1, 2005, the Panel denied Claimants' motion.

At the evidentiary hearing, the Panel: 1) granted Claimants' motion to allow non-lawyer representation upon receipt of affirmation by non-lawyer representative that he would not be compensated; 2) denied Respondents' motion to preclude Claimants' documents and witnesses; 3) denied Respondents' motion for directed award dismissing all claims and awarding attorneys' fees and costs to Respondent Miller; and 4) denied Respondent Miller's motion for expungement of all references to the above-captioned arbitration from Respondent Miller's NASD CRD records.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), 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. Respondent Miller's request for attorneys' fees is denied.
3. Respondent Miller's request for expungement is denied.
4. Any and all claims for relief not specifically addressed herein are 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent AEFA is a member firm and 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:

There were no adjournment fees assessed during these proceedings.

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:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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:

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

Six (6) Hearing sessions @ \$1,125.00 = \$6,750.00
Hearing Dates: August 30, 2005 2 sessions
August 31, 2005 2 sessions
September 1, 2005 2 sessions

Total Forum Fees = \$7,875.00

The Panel has assessed the total forum fees in the amount of \$7,875.00 jointly and severally to Claimants Terrie R. Dileo and Joseph R. Dileo.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

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

Claimants Terrie R. Dileo and Joseph R. Dileo are jointly and severally liable for:

<u>Forum Fees</u>	= \$7,875.00
<u>Total Fees</u>	= \$7,875.00
<u>Less payments</u>	= \$1,125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$6,750.00

Respondent AEFA is solely liable for:

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

<i>Alun Hywel Jones</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Richard J. Fuller, CPA</i>	-	<i>Public Arbitrator</i>
<i>William H. McCullough</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Alun Hywel Jones
Public Arbitrator, Presiding Chairperson

September 6, 2005
Signature Date

/s/
Richard J. Fuller, CPA
Public Arbitrator

September 6, 2005
Signature Date

/s/
William H. McCullough
Non-Public Arbitrator

September 6, 2005
Signature Date

September 7, 2005
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution

Arbitration No. 04-03628

Award Page 4

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- \$7,875.00

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ARBITRATION PANEL

Alan Hywel Jones

Public Arbitrator, Presiding Chairperson

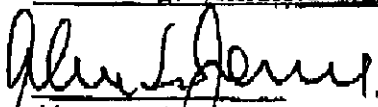
Richard J. Neller, CPA

Public Arbitrator

William H. McCullough

Non-Public Arbitrator

Consenting Arbitrators' Signatures



Alan Hywel Jones

Public Arbitrator, Presiding Chairperson



Signature Date

Richard S. Orr

9/6/05
Signature Date

Signature Date

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
Arbitration No. 04-03628
Award Page 5

Richard J. Fuller, CPA
Public Arbitrator

Signature Date

William H. McCullough
William H. McCullough
Non-Public Arbitrator

9.6.05
Signature Date

Date of Service (For NASD Dispute Resolution use only)