

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Victor E. Anderson, Claimant v. Robert S. DeWitt and Mutual Securities, Inc., Respondents

Case Number: 04-05180

Hearing Site: Seattle, Washington

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

REPRESENTATION OF PARTIES

For Claimant:

Bernard W. McNallen, Esq.
Balsam McNallen, LLP
Tacoma, Washington

For Respondent Robert S. DeWitt:

David W. Silke, Esq.
Carney Badley Spellman
Seattle, Washington

For Respondent Mutual Securities, Inc.:

Jason T. Dennett, Esq.
Carlson & Dennett, P.S.
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: July 16, 2004

Claimant's Uniform Submission Agreement signed: July 1, 2004

Statement of Answer filed by Respondent Robert S. DeWitt: January 11, 2005

Respondent Robert DeWitt's Uniform Submission Agreement signed: December 17, 2004

Statement of Answer filed by Respondent Mutual Securities, Inc.: October 5, 2004

Respondent Mutual Securities, Inc.'s Uniform Submission Agreement signed: October 1, 2004

CASE SUMMARY

Claimant alleged breach of contract, unsuitability, negligence, material misrepresentations and omissions, violations of the Revised Code of Washington sections 21.20 and 19.86.020, churning, and failure to supervise. Claimant's allegations involved variable annuities and purchases of shares of Hartford mutual funds.

Respondents Robert S. DeWitt and Mutual Securities, Inc. denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested unspecified compensatory damages, unspecified punitive damages, pre-judgment interest, rescission, special damages, and costs, including attorney's fees.

Respondents Robert S. DeWitt and Mutual Securities, Inc. requested dismissal of Claimant's Statement of Claim in its entirety and assessment of all forum fees against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

On October 5, 2004, Respondent Mutual Securities, Inc. filed a Motion to Dismiss. On December 29, 2004, Claimant filed a Response to Mutual Securities' Motion to Dismiss. On January 7, 2005, Respondent Mutual Securities, Inc. filed a Rebuttal to Anderson's Memorandum in Response to Mutual Securities' Motion to Dismiss. On January 14, 2005, the Panel heard oral argument from the parties regarding this motion and on January 19, 2005, the Panel issued an Order dismissing all claims against Respondent Mutual Securities, Inc. due to the expiration of all federal and state statutes of limitation.

On March 11, 2005, Respondent Robert S. DeWitt filed a Motion to Dismiss, a Motion for Leave to Amend Statement of Answer, and a Declaration of David W. Silke in Support of Robert DeWitt's Motion for Leave to Amend Statement of Answer. Claimant was provided with an opportunity to submit a response to these motions, but no response was received by NASD Dispute Resolution. On April 15, 2005, the Panel deliberated regarding Respondent Robert S. DeWitt's Motion to Dismiss and granted that motion.

The parties 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 Respondent Robert S. DeWitt's Motion to Dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 250.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Mutual Securities, Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,200.00
Total Member Fees	= \$ 4,450.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) pre-hearing conference sessions with the Panel @ \$1,000.00/session	= \$ 2,000.00
Pre-hearing conferences: December 7, 2004	1 session
January 14, 2005	1 session
Total Forum Fees	= \$2,000.00

1. The Panel assessed \$333.33 of the forum fees to Claimant Victor E. Anderson.
2. The Panel assessed \$333.33 of the forum fees to Respondent Robert DeWitt.
3. The Panel assessed \$1,333.33 of the forum fees to Respondent Mutual Securities, Inc.

Fee Summary

1. Claimant Victor E. Anderson is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 333.33
Total Fees	= \$ 583.33
<u>Less payments</u>	= \$(1,250.00)
Refund Due Claimant Victor E. Anderson	= \$ (666.67)

2. Respondent Mutual Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	= \$ 1,333.33
Total Fees	= \$ 5,783.33
<u>Less payments</u>	= \$(4,450.00)
Balance Due NASD Dispute Resolution	= \$ 1,333.33

3. Respondent Robert S. DeWitt is charged with the following fees and costs:

<u>Forum Fees</u>	= \$ 333.33
Balance Due NASD Dispute Resolution	= \$ 333.33

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

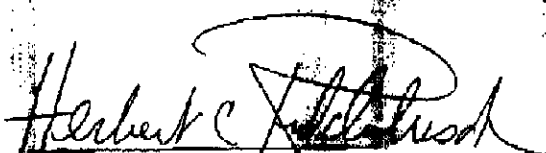
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ARBITRATION PANEL

Herbert C. Ridderbusch
David W. Evans, Esq.
Jan Aalbrecht Slinn, Esq.

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Herbert C. Ridderbusch
Chair, Public Arbitrator

4-18-05

Signature Date

David W. Evans, Esq.
Public Arbitrator

Signature Date

Jan Aalbrecht Slinn, Esq.
Non-Public Arbitrator

Signature Date

4/19/05
Date of Service

NASD Dispute Resolution
Arbitration No. 04-05180
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<i>Herbert C. Ridderbusch</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>David W. Evans, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Jan Aalbrektse Slinn, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Herbert C. Ridderbusch
Chair, Public Arbitrator

David W. Evans, Esq.
Public Arbitrator

Jan Aalbrektse Slinn, Esq.
Non-Public Arbitrator

Signature Date

April 18, 2005
Signature Date

Signature Date

4/19/05
Date of Service

ARBITRATION PANEL

<i>Herbert C. Ridderbusch</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>David W. Evans, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Jan Aalbrektse Slinn, Esq.</i>	-	<i>Non-Public Arbitrator</i>

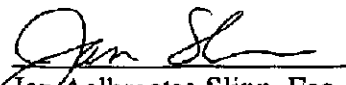
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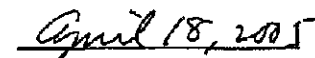
Signature Date

David W. Evans, Esq.
Public Arbitrator

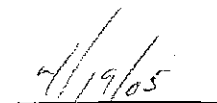
Signature Date



Jan Aalbrektse Slinn, Esq.
Non-Public Arbitrator



Signature Date



Date of Service