

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Estate of James A. Poulis, Claimant v. Citicorp Investment Services and Glen Jay Kramer,  
Respondents

Case Number: 04-05803

Hearing Site: Las Vegas, Nevada

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

**REPRESENTATION OF PARTIES**

For Claimant:

Thomas J. Hanrahan, Esq.  
Glen Rock, New Jersey

For Respondents:

David Gorfinkel, Esq.  
Citicorp Investment Services  
Long Island City, New York

**CASE INFORMATION**

Statement of Claim filed: August 11, 2004

Claimant James Poulis' Uniform Submission Agreement signed: August 4, 2004

Claimant Estate of James A. Poulis' Uniform Submission Agreement signed: March 22, 2005

Joint Statement of Answer filed by Respondents Citicorp Investment Services and Glen Jay  
Kramer: October 7, 2004

Respondent Citicorp Investment Services' Uniform Submission Agreement signed: October 7,  
2004

Respondent Glen Jay Kramer's Uniform Submission Agreement signed: September 20, 2004

**CASE SUMMARY**

Claimant alleged unsuitability and failure to supervise. Claimant's allegations involved mutual funds, several of which were long term growth funds.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted the following defenses: failure to state a valid claim, assumption of risk, losses resulted from unforeseen market fluctuations, ratification, Claimant's losses were due in whole or in part to Claimant's conduct, waiver, Respondents did not make unsuitable recommendations

to Claimant, Respondents did not fail to adhere to just and equitable principles of fair trade and honest dealing with Claimant, and Claimant may not recover attorney's fees, costs, or punitive damages.

### **RELIEF REQUESTED**

Claimant requested \$42,445.00 in compensatory damages, punitive damages in the amount of \$84,890.00, pre- and post-judgment interest and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety and expungement of this matter from Respondent Glen Jay Kramer's regulatory records.

### **OTHER ISSUES CONSIDERED AND DECIDED**

By letter dated February 16, 2005, Claimant's counsel notified NASD that Claimant had passed away and that Claimant's executor and sister, Joyce Kastrinakis, would continue to pursue this matter on behalf of Claimant's estate. Ms. Kastrinakis submitted to NASD a Nevada District Court Order to Set Aside Estate Without Administration, dated March 4, 2005, which order assigned Mr. Poulis' estate to Ms. Kastrinakis. On March 22, 2005, Ms. Kastrinakis executed a new Uniform Submission Agreement in her capacity as the executor of the Estate of James A. Poulis.

On March 7, 2005, Claimant's counsel notified NASD in writing that the parties had reached a settlement agreement and that Respondents' counsel would be providing the arbitration panel with a proposed Stipulated Award recommending expungement of this matter from Respondent Glen Jay Kramer's CRD records. During June and July 2005, NASD staff made several follow-up phone calls regarding the parties' submission of a proposed Stipulated Award; however, no Stipulated Award was received by NASD in response to these phone calls. On August 2, 2005, the Panel issued an order stating that the parties must submit a Stipulated Award for the Panel's consideration within thirty (30) days. The parties were advised that failure to comply with the Panel's order would result in the Panel's authorizing NASD to dismiss this matter with or without prejudice. As of September 2, 2005, NASD had not received the parties' Stipulated Award. Accordingly, the Panel hereby dismisses this matter with prejudice.

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 NASD's efforts to obtain a proposed Stipulated Award from the parties and the parties' failure to comply with the Panel's August 2, 2005 Order, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are dismissed with prejudice.
- 2) This matter will not be expunged from Respondent Glen Jay Kramer's CRD records.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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	= \$ 300.00
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#### **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 Citicorp Investment Services is a party, and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
<b>Total Member Fees</b>	<b>= \$5,200.00</b>

#### **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:

One (1) pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: December 10, 2004 1 session	
<b>Total Forum Fees</b>	<b>= \$1,125.00</b>

1. The Panel assessed \$562.50 of the forum fees to Claimant Estate of James A. Poulis.

2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents Citicorp Investment Services and Glen Jay Kramer.

**Fee Summary**

1. Claimant Estate of James A. Poulis is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$(1,425.00)
<b>Refund Due Claimant</b>	<b>= \$ (562.50)</b>

2. Respondent Citicorp Investment Services is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Citicorp Investment Services and Glen Jay Kramer are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 562.50
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 562.50</b>

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 No. 04-05803  
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**ARBITRATION PANEL**

*John G. Manley, Esq.*

*Public Arbitrator, Presiding Chair*

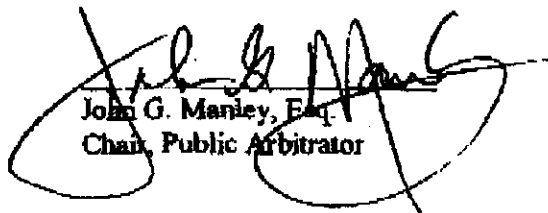
*Gloria J. Moore, Esq.*

*Public Arbitrator*

*David M. Seidner*

*Non-Public Arbitrator*

**Consenting Arbitrators' Signatures**

  
John G. Manley, Esq.  
Chair, Public Arbitrator

9-2-05  
Signature Date

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Gloria J. Moore, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
David M. Seidner  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

9/6/05  
Date of Service

NASD Dispute Resolution  
Arbitration No. 04-05803  
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*Gloria J. Moore, Esq.*  
*David M. Seidner*


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*Public Arbitrator, Presiding Chair*  
*Public Arbitrator*  
*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

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John G. Manley, Esq.  
Chair, Public Arbitrator

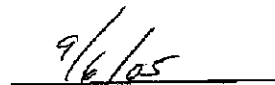
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<i>Gloria J. Moore, Esq.</i>	-	<i>Public Arbitrator</i>
<i>David M. Seidner</i>	-	<i>Non-Public Arbitrator</i>

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Chair, Public Arbitrator

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David M. Seidner  
Non-Public Arbitrator

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Signature Date

9/6/05

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Date of Service