

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Tammy L. Sullivan (Claimant) v. Advest, Inc. and Patrick Buettner (Respondents)

Case Number: 04-05820

Hearing Site: Buffalo, New York

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

REPRESENTATION OF PARTIES

Claimant Tammy L. Sullivan hereinafter referred to as "Claimant": Larry A. Sebastian, Esq., Capretz & Associates, Newport Beach, CA.

Respondents Advest, Inc. ("Advest") and Patrick Buettner ("Buettner") hereinafter collectively referred to as "Respondents": Paul K. Stecker, Esq., Phillips Lytle LLP, Buffalo, NY.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: August 4, 2004.

Joint Statement of Answer filed by Respondents on or about: October 22, 2004.

Respondent Advest signed the Uniform Submission Agreement: September 23, 2004.

Respondent Buettner signed the Uniform Submission Agreement: September 24, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: violations of NASD Conduct Rule 2110; unsuitability; failure to supervise; negligence; and breach of fiduciary duty. The causes of action relate to unspecified mutual funds.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$240,256.00; punitive damages in the amount of \$150,000.00; attorneys' fees and expert witness fees; prejudgment interest at the legal rate on all awards from September 24, 2001; that costs of this arbitration, including all

forum and session fees be assessed against Respondents; and for such other and further relief as is appropriate under the circumstances.

Respondent requested that the Statement of Claim be dismissed in its entirety and that all forum fees and costs be assessed against Claimant

OTHER ISSUES CONSIDERED AND DECIDED

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. Claimant's claims are denied in their entirety.
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 person at the time of the events giving rise to the dispute. Accordingly, Advest, Inc. is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

June 21 & 22, 2005, adjournment by Claimant

WAIVED

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: January 13, 2005 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$ 4,500.00
Hearing Dates: September 26, 2005 2 sessions
September 27, 2005 2 sessions

Total Forum Fees = \$ 5,625.00

1. The Panel has assessed \$5,625.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is solely liable for:

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

3. Respondent Advest, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 5,625.00
Total Fees	= \$ 5,625.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

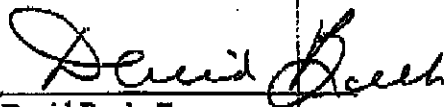
ARBITRATION PANEL

David Buch, Esq.
David L. Hoffberg
Patrick M. Markey

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- 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.



David Buch, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

David L. Hoffberg
Public Arbitrator

Signature Date

Patrick M. Markey
Non-Public Arbitrator

Signature Date

OCTOBER 10, 2005

Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator

9/30/05

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Non-Public Arbitrator

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