

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Diane Gernand v. Legacy Financial Services, Inc., and Joseph R. Karsner, IV

Case Number: 04-07345

Hearing Site: Baltimore, MD

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

REPRESENTATION OF PARTIES

Claimant, Diane Gernand, hereinafter referred to as "Claimant", was represented by William B. Young, Esq., Hooper & Weiss, LLC, Orlando, Florida.

Respondents, Legacy Financial Services, Inc. ("Legacy") and Joseph R. Karsner, IV ("Karsner"), hereinafter collectively referred to as "Respondents", were represented by George S. Mahaffey, Jr., Esq. and Jeffrey J. Hines, Esq., Goodell, DeVries, Leech & Dann, LLP, Baltimore, Maryland

CASE INFORMATION

Statement of Claim filed on or about October 19, 2004.

Claimant signed the Uniform Submission Agreement on October 25, 2004.

Claimant filed a Response to the Motion to Dismiss on February 21, 2005.

Claimant filed an Amended Statement of Claim on March 29, 2005.

Statement of Answer and Motion to Dismiss filed by Respondents on February 8, 2005.
Respondents did not file Uniform Submission Agreements with NASD Dispute Resolution.

Respondents filed a Response to the Amended Statement of Claim on May 31, 2005.

CASE SUMMARY

Claimant asserted the following causes of action, among others: negligence, breach of contract, breach of fiduciary duty, *respondeat superior*, violation of NASD Rule 2110, failure to supervise, unsuitability, omissions/misrepresentations, and fraudulent inducement. The causes of action related to the purchase of shares in several mutual funds including Oppenheimer MidCap Fund, the Janus Capital Growth Fund, Oppenheimer Main Street Growth and Income Fund, and the Neuberger & Berman MidCap Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief can be granted; assumption

of the risk; contributory negligence; Claimant's claim is barred by the doctrine of waiver and estoppel; failure to mitigate damages; *respondeat superior*; and statute of limitations.

RELIEF REQUESTED

Claimant, in her Statement of Claim and Amended Statement of Claim, requested:

Compensatory Damages	\$36,400.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Motion to Dismiss requested that the Statement of Claim be dismissed in its entirety and that the Arbitrator award them attorneys' fees, forum fees, and other costs incurred.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Arbitrator on all issues submitted.

The Arbitrator denied Respondents' Motion to Dismiss.

On or about May 25, 2006 the parties entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

The parties entered into an agreement to present to the Arbitrator a Stipulated Award. Upon motion of both parties for a Stipulated Award and Claimant's agreement, as a result of information and documents obtained during the discovery process that all investments at issue were suitable and that the Respondents are not liable for any of the counts in the Statement of Claim and Amended Statement of Claim; the Arbitrator finds that the claims, allegations and information contained in the Statement of Claim and Amended Statement of Claim are clearly erroneous and that the Respondents were not involved in the alleged investment-related sales practice violations, and hereby grants the parties' motion and enters this award granting the following relief:

1. Pursuant to the confidential settlement agreement reached between the parties,

all claims against Respondents are dismissed with prejudice;

2. The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Karsner's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Karsner must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the Arbitrator has made the following affirmative findings of fact:

The claim, allegation or information is factually impossible or clearly erroneous, and the registered person was not involved in the alleged investment-related sales practice violations;

3. All claims for punitive damages and attorneys' fees are denied in their entirety;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein is denied in its entirety.

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	= \$ 175.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Legacy is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,625.00

Forum Fees and Assessments

The Arbitrator 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: May 12, 2005 1 session	
May 26, 2005 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 900.00

1. The Arbitrator has assessed \$450.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$450.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	<u>= \$ 450.00</u>
Total Fees	= \$ 625.00
<u>Less payments</u>	<u>= \$ 625.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00
2. Respondent Legacy is assessed and shall pay the following fees:

<u>Member Fees</u>	<u>= \$2,625.00</u>
Total Fees	= \$2,625.00
<u>Less payments</u>	<u>= \$1,750.00</u>
Balance Due NASD Dispute Resolution	= \$ 875.00
3. Respondents are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	<u>= \$ 450.00</u>
Total Fees	= \$ 450.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution	= \$ 450.00

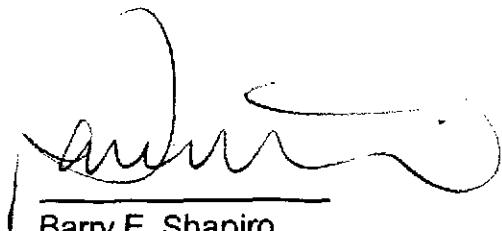
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

Sole Public Arbitrator

Barry E. Shapiro

- Sole Public Arbitrator

Sole Arbitrator's Signature



Barry E. Shapiro
Sole Public Arbitrator

July 14, 2006
Signature Date

7/20/06
Date of Service (For NASD Dispute Resolution office use only)