
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Karen Talcott

Case Number: 04-07352

Name of the Respondent
Linsco/Private Ledger Corp.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Karen Talcott, hereinafter referred to as "Claimant": Charles C. Hunter, Esq., Woska & Hayes, LLP, Kingwood, Texas.

For Linsco/Private Ledger Corp., hereinafter referred to as "Respondent": David J. Freniere, Esq., N. Nancy Ghabai, Esq. and Amanda Hawley, Esq., Linsco/Private Ledger Corp., Boston, Massachusetts and Brian D. Elias, Fowler White Burnett, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 13, 2004.

Claimant signed the Uniform Submission Agreement: July 19, 2004.

Statement of Answer, Motion to Dismiss and Motion for Sanctions filed by Respondent on or about: December 10, 2004.

Respondent signed the Uniform Submission Agreement: December 10, 2004.

Response to Motion to Dismiss and Motion for Sanctions filed by Claimant on or about: December 27, 2004.

First Amended Statement of Claim filed by Claimant on or about: December 27, 2004.

Response to First Amended Statement of Claim filed by Respondent on or about: January 10, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: controlling person liability pursuant to Section 20(a) of the Exchange Act; breach of fiduciary duty; breach of contract; violation of *Know Your Customer* rule; unsuitability; failure to diversify; failure to supervise; violations of securities laws, including securities regulatory rules, the Florida Securities and Investor Protection Act, and the Florida Deceptive and Unfair Trade Practices Act; and, failure to hedge. The causes of action relate to Claimant's investments in various mutual funds, including the following: Fidelity Advisor Series II Growth Opportunities Class T; Putnam Capital Appreciation Fund Class B; and, Putnam New Opportunities Class B.

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

RELIEF REQUESTED

Claimant requested the following:

1. compensatory damages, comprised of account losses and other damages, in the amount of at least \$100,000.00;
2. all charges to the account;
3. lost earnings on the account;
4. prejudgment interest at the maximum statutory rate;
5. costs;
6. attorneys' fees;
7. unspecified punitive damages; and
8. all other and further relief to which Claimant may be entitled.

Respondent requested that the Panel deny Claimant's Claim in its entirety and award Respondent its arbitration costs and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent filed a Motion to Dismiss and Motion for Sanctions in which Respondent asserted that Claimant's claims are totally false and frivolous. In her response, Claimant asserted, among other things, that a hearing on the merits is required because the Code of Arbitration Procedure (the "Code") does not provide for motions to dismiss. Claimant further asserted that dismissing the claim as a sanction is unwarranted because Claimant did not violate any Panel order, as contemplated by Rule 10305 of the Code. On or about February 24, 2005, the Panel denied Respondent's Motion to Dismiss and Motion for Sanctions.

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 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:

Claimant's claims are denied in their entirety and dismissed with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimant's claims for relief pursuant to the Florida Securities and Investor Protection Act, Claimant's request for punitive damages, and the parties' respective requests for attorneys' fees, 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 = \$ 225.00

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, Respondent is a member firm and a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

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:

Two (2) Pre-hearing sessions with the Panel at \$750.00/session	= \$1,500.00
Pre-hearing conferences: February 21, 2005 1 session	
July 29, 2005 1 session	
One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: July 15, 2005 1 session	
Five (5) Hearing sessions @ \$750.00/session	= \$3,750.00
Hearing Dates: August 2, 2005 2 sessions	
August 3, 2005 3 sessions	
<u>Total Forum Fees</u>	<u>= \$5,700.00</u>

The Panel assessed forum fees of \$2,850.00 to Claimant.

The Panel assessed forum fees of \$2,850.00 to Respondent.

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

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$2,850.00</u>
Total Fees	= \$3,075.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$1,650.00

Respondent is solely liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$2,850.00</u>
Total Fees	= \$6,400.00
<u>Less payments</u>	<u>= \$3,700.00</u>
Balance Due NASD Dispute Resolution	= \$2,700.00

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

ARBITRATION PANEL

Edward Aptaker, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael Lau	-	Public Arbitrator
John C. Newsom	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Edward Aptaker, Esq.
Public Arbitrator, Presiding Chairperson

August 12, 2005
Signature Date

_____/s/_____
Michael Lau
Public Arbitrator

August 10, 2005
Signature Date

_____/s/_____
John C. Newsom
Non-Public Arbitrator

August 9, 2005
Signature Date

August 15, 2005
Date of Service (For NASD Dispute Resolution office use only)

The Panel assessed forum fees of \$2,850.00 to Respondent.

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Michael Lau	-	Public Arbitrator
John C. Newsom	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Edward Aptaker, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

Michael Lau
Public Arbitrator

Signature Date

John C. Newsom
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

AUG. 8. 2005 5:29PM NASD REGULATIONS
 Dispute Resolution
 Arbitration No. 04-07352
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Michael Lau	-	Public Arbitrator
John C. Newsom	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edward Aptaker, Esq.
 Public Arbitrator, Presiding Chairperson


 Michael Lau
 Public Arbitrator

Signature Date

8/10/05
 Signature Date

John C. Newsom
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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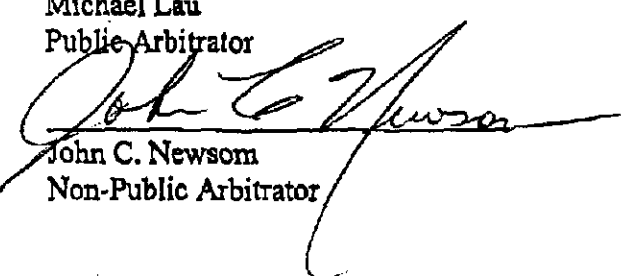
Concurring Arbitrators' Signatures

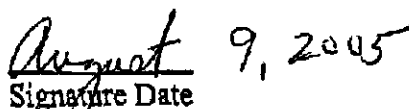
Edward Aptaker, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Michael Lau
Public Arbitrator

Signature Date


John C. Newsom
Non-Public Arbitrator


August 9, 2005
Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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