

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley

and

Case Number: 04-07933
Hearing Site: Oklahoma City, Oklahoma

Respondents

AXA Advisors LLC and
Marsha Schubert

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley, hereinafter referred to as ("**Claimants**"), were represented by Joseph H. Bocock, Esq., of McAfee & Taft, Oklahoma City, Oklahoma and Kurtis J. Ward, Esq., Oklahoma City, Oklahoma.

AXA Advisors LLC ("**AXA**") was represented by Clarence L. Pozza, Jr., Esq. and Thomas R. Cox, of Miller, Canfield, Paddock and Stone, PLC, Detroit, Michigan.

Marsha Schubert ("**Schubert**") did not make an appearance.

CASE INFORMATION

The Statement of Claim was filed on or about November 16, 2004. The Submission Agreement of the Robert Lynn Pourchot Trust, by Robert Lynn Pourchot, Trustee, was filed on or about November 15, 2004.

The Submission Agreement of the Pork Chop Trust was filed by Donald W. Orr, Trustee, on or about November 15, 2004. The Will Foundation did not file a Submission Agreement. The Submission Agreement of Pourchot Investments LP was filed by Robert L. Pourchot, on or about November 15, 2004. The Submission Agreement of the Phillip M. Pourchot Revocable Trust was filed by Phillip M. Pourchot, Trustee, on or about December 8, 2004. The Submission Agreement of Robert L. Talley and Pamela J. Talley was signed on or about January 14, 2005.

Claimants' Amended Statement of Claim was filed on or about January 20, 2005. Claimants' Second Amended Statement of Claim was filed on or about August 23, 2005.

The Statement of Answer and Motion to Stay Arbitration was filed by AXA Advisors LLC on or about February 4, 2005. The Submission Agreement of AXA Advisors LLC, was signed on or about January 21, 2005 by Raymond T. Barry, Vice President. AXA's Response to Claimants' Second Amended Statement of Claim was filed on or about August 29, 2005.

Claimants' Response to AXA's Motion to Stay was filed on or about March 29, 2005. AXA's Reply Brief in Support of the Motion to Stay was filed on or about April 14, 2005.

Claimants' Motion to Correct the Case Style was filed on or about June 24, 2005. AXA's Response to the Motion to Correct the Case Style was filed on or about July 18, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: negligence, failure to supervise, breach of fiduciary duty, misrepresentations/non-disclosures, unauthorized trading, and omission of facts. The causes of action related to the order execution and recommendation of unspecified securities. Claimants alleged that Marsha Schubert, embezzled their funds in an account named Schubert & Associates, ("the Dummy Accounts"), in which bogus account statements and descriptions were prepared and sent by the Crescent office of Respondent AXA. Claimants also alleged that AXA failed to meet its obligations to supervise its employee, Marsha Schubert.

Unless specifically admitted in its Answer, Respondent, AXA Advisors, LLC, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim is barred for failure to state a claim upon which relief can be granted; Claimants' claims are barred, in whole or in part, by applicable statutes or other periods of limitations; Claimants' claims are barred, in whole or in part, by the equitable doctrine of laches; Claimants' claims are barred, in whole or in part, by the equitable doctrine of estoppel; Claimants' claims are barred, in whole or in part, by the doctrine of waiver; and Claimants' claims are barred because they failed to mitigate damages.

RELIEF REQUESTED

In the Statement of Claim, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot, Trust, requested an award in the amount of \$1,050,000.00 in compensatory damages subject to prove up at hearing.

Donald W. Orr, Trustee of the Pork Chop Trust, requested an award in the amount of \$135,000.00 in compensatory damages.

The Will Foundation requested an award in the amount of \$245,000.00 in compensatory damages.

Pourchot Investments LP requested an award in the amount of \$735,000.00 in compensatory damages.

In the Statement of Claim, Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust, Trust, requested an award in the amount of \$1,170,126.00 in compensatory damages subject to prove up at hearing.

On or about August 23, 2005, Robert L. Talley and Pamela J. Talley were added as Claimants. Robert L. Talley and Pamela J. Talley requested an award in the amount of \$169,000.00.

Claimants, collectively, also requested \$10,000,000.00 in punitive damages, plus attorneys' fees, interest and other relief the panel deemed just and proper.

Respondent, AXA Advisors, LLC, requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees and other relief the panel deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrators have determined that Respondent, Marsha Schubert, has been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Marsha Schubert had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

The Will Foundation, did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement, however having filed the claim and appeared through a representative, is bound by the determination of the Panel on all issues submitted.

Marsha Schubert, did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code, is bound by the determination of the Panel on all issues submitted.

On or about August 5, 2005, the panel entered an order granting Claimants' Motion to Correct the name of one of the Claimants from "Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot 1998 Qualified Annuity Trust" to "Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust."

At the hearing, Claimants objected to the admission of the case filed by the Oklahoma Department of Securities against Farmers & Merchants Bank into the record. The panel overruled the objection.

Claimants submitted affidavits concerning their request for attorneys' fees and costs, on or about August 4, 2006. AXA submitted a filed a submission regarding attorneys' fees, on or about August 11, 2006. Claimants' response to AXA's submission regarding attorneys' fees, was filed on or about August 18, 2006. AXA's reply to Claimants' response to AXA's submission regarding attorneys' fees was filed on or about August 21, 2006.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, and post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust, the sum of \$102,649.30 in compensatory damages; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust, the sum of \$29,147.84 in interest pursuant to 71 O.S. § 408(a)(2)(A);
- 2) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Donald W. Orr, Trustee of the Pork Chop Trust, the sum of \$6,750.00; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Donald W. Orr, Trustee of the Pork Chop Trust, the sum of \$1,916.70 in interest pursuant to 71 O.S. § 408(a)(2)(A);

- 3) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, The Will Foundation, the sum of \$12,250.00 in compensatory damages; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, The Will Foundation, the sum of \$3,478.46 in interest pursuant to 71 O.S. § 408(a)(2)(A);
- 4) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Pourchot Investments LP, the sum of \$73,500.00 in compensatory damages; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Pourchot Investments LP, the sum of \$20,870.73 in interest pursuant to 71 O.S. § 408(a)(2)(A);
- 5) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust, the sum of \$109,195.91 in compensatory damages; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimant, Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust, the sum of \$31,006.79 in interest pursuant to 71 O.S. § 408(a)(2)(A);
- 6) AXA Advisors LLC, is liable for and shall pay to Claimants, Robert L. Talley and Pamela J. Talley, the sum of \$42,250.00 in compensatory damages; Respondent, AXA Advisors LLC, is liable for and shall pay to Claimants, Robert L. Talley and Pamela J. Talley, the sum of \$11,997.12 in interest pursuant to 71 O.S. § 408(a)(2)(A);
- 7) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimants, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley, collectively, the sum of \$350,000.00 in punitive damages;

Punitive damages are awarded due to AXA terminating investigation in June, 2004, because Marsha Schubert was no longer an agent with AXA. AXA dropped further investigation that could have prevented additional loss to current customers and stopped further transactions with new investors.

- 8) Respondent, AXA Advisors LLC, is liable for and shall pay to Claimants, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley, collectively, the sum of \$47,732.93 in attorneys' fees pursuant to 71 O.S. § 408(i) for the services of the McAfee and Taft Law Firm; and
- 9) Claimants' claims, each and all against Marsha Schubert, are denied and dismissed with prejudice;

10) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter, and

11) Any relief not specifically enumerated is denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 600.00

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. In this matter, the member firm is AXA Advisors LLC.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1,200.00 = \$ 1,200.00

Pre-hearing conference: June 24, 2005 1 session

Eighteen (18) Hearing sessions x \$1,200.00 = \$21,600.00

Hearing Dates:

April 18, 2006	2 sessions
April 19, 2006	2 sessions
April 20, 2006	2 sessions
April 21, 2006	1 session
July 24, 2006	3 sessions
July 25, 2006	2 sessions
July 26, 2006	3 sessions

July 27, 2006	2 sessions
July 28, 2006	1 session

Total Forum Fees	= \$22,800.00
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The Arbitration Panel has assessed \$11,400.00 of the forum fees to Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; and Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley, jointly and severally.

The Arbitration Panel has assessed \$11,400.00 of the forum fees to AXA Advisors LLC.

Fee Summary

Claimants, Robert Lynn Pourchot, Trustee of the Robert Lynn Pourchot Trust; Donald W. Orr, Trustee of the Pork Chop Trust; The Will Foundation; Pourchot Investments LP; Phillip M. Pourchot, Trustee of the Phillip M. Pourchot Revocable Trust and Robert L. Talley and Pamela J. Talley, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$11,400.00
Total Fees	= \$12,000.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$10,200.00

Respondent, AXA Advisors LLC, is liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$11,400.00
Total Fees	= \$19,950.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$11,400.00

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

ARBITRATION PANEL

Van R. Oliver, CPA - Public Arbitrator, Presiding Chair
James B. Vessey, Esq. - Public Arbitrator
David G. Ritchie - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Van R. Oliver, CPA
Van R. Oliver, CPA
Public Arbitrator, Presiding Chair

08/28/06
Signature Date

/s/ James B. Vessey, Esq.
James B. Vessey, Esq.
Public Arbitrator

08/29/06
Signature Date

/s/ David G. Ritchie
David G. Ritchie
Non-Public Arbitrator

08/28/06
Signature Date

08/31/06
Date of Service (For NASD office use only)

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Concurring Arbitrators:

Van Oliver
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Public Arbitrator, Presiding Chair

8/28/06
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Signature Date

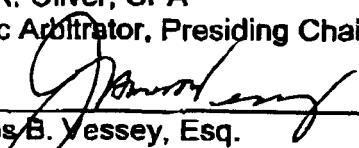
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8/28/06
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