

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Virgie Hyle and Beverly Barnhart v. Legacy Financial Services, Inc. and Joseph R. Karsner, IV.

Case Number: 04-08296

Hearing Site: Washington, DC

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

REPRESENTATION OF PARTIES

Claimants, Virgie Hyle and Beverly Barnhart, hereinafter collectively referred to as "Claimants", were 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 Christopher M. Corchiarino, Esq. and Jeffrey J. Hines, Esq., Goodell, DeVries, Leech & Dann, LLP, Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on December 2, 2004.

Claimants submitted undated Uniform Submission Agreements.

Claimants filed a Motion to Amend Statement of Claim on March 29, 2005.

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

Statement of Answer and Motion to Dismiss filed by Respondents on January 10, 2005.

Respondent Karsner did not submit a Uniform Submission Agreement with NASD Dispute Resolution.

A representative of Respondent Legacy executed the Uniform Submission Agreement on March 25, 2005.

Respondents filed a Statement of Answer to the Amended Statement of Claim on June 1, 2005.

Respondents filed a Supplemental Answer to the Amended Statement of Claim on July 7, 2005.

CASE SUMMARY

Claimants 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, fraudulent inducement, and common law fraud. The causes of action relate to the purchase of Oppenheimer Funds.

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 may be granted; assumption of the risk; contributory negligence; Claimants' claims are barred by the doctrines of waiver and estoppel; failure to mitigate damages; and statutes of limitations.

RELIEF REQUESTED

Claimants, in their Statement of Claim and Amended Statement of Claim, requested:

Compensatory Damages	\$28,240.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim and Amended Statement of Claim be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

By Order dated July 2, 2005, the Arbitrator denied Respondents' Motion to Dismiss and granted Claimants' Motion to Amend the Statement of Claim.

On or About May 23, 2006 the parties notified NASD Dispute Resolution that they had settled all matters by and between them and requested that the Arbitrator grant their request for a Stipulated Award which included an expungement request. The Arbitrator requested a telephonic hearing in order to hear evidence in support of the expungement request. The parties submitted a Joint Affidavit and request that the Arbitrator consider it in lieu of a hearing, and stated the following reasons:

"During discovery in this case, the Claimants obtained documents which demonstrate that the Claimants' claims were ultimately, clearly erroneous. These documents, including new account forms, prospectuses, and other literature and correspondence demonstrated to the Claimants that Respondent Karsner had kept the Claimant apprised of their investments, did provide them information on the funds that they eventually decided to invest in, and did have the Claimants execute documents which reflected their risk tolerance and investment objectives. Unfortunately, the Claimants' investments were negatively impacted during and after the stock market correction of March 2000, an event that was outside the control of the Respondents.

Accordingly, the Claimants and Respondents do not believe that it is necessary to hold a Hearing in this matter and Claimants and Respondents respectfully request that the Panel assent to the relief set forth in the Stipulated Award and expunge any information relating to this case from Respondents' CRD".

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

Upon motion of both parties for a Stipulated Award and Claimants' agreement, as a result of information and documents obtained during the discovery process that all investments at issue were suitable, executed in accordance with the Claimants' instructions, 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. 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	= \$ 150.00
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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	= \$ 600.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,350.00

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 31, 2005 1 session	
June 30, 2005 1 session	
<u>Total Forum Fees</u>	<u>= \$ 900.00</u>

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

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

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 450.00</u>
Total Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$ 600.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent Legacy is assessed and shall pay the following fees:

<u>Member Fees</u>	= \$2,350.00
<u>Total Fees</u>	= \$2,350.00
<u>Less payments</u>	= \$2,350.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 00.00

3. Respondents are jointly and severally assessed and shall pay the following fees:

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

James R. Stirn, Esq.

- Sole Public Arbitrator

Sole Arbitrator's Signature


James R. Stim, Esq.
Sole Public Arbitrator

August 28, 2006
Signature Date

8/29/06
Date of Service (For NASD Dispute Resolution office use only)