

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lance R. Freed, Judith Fisher Freed, The Freed Living Trust dated 5/9/97, and The Judith Fisher Freed Living Trust dated 12/19/66, Claimants v. Clearing Services of America, Inc., Respondent

Case Number: 05-00892

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Leonard Steiner, Esq.
Steiner & Libo
Beverly Hills, California

For Respondent:

Thomas Rittenburg, Esq.
Lewis Brisbois Bisgaard & Smith LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 17, 2005

Claimant Lance R. Freed's Uniform Submission Agreement signed: February 28, 2005

Claimant Judith Fisher Freed's Uniform Submission Agreement signed: February 25, 2005

Claimant The Freed Living Trust dated 5/9/97's Uniform Submission Agreement signed by Lance R. Freed as trustee: February 28, 2005

Claimant The Judith Fisher Freed Living Trust dated 12/19/66's Uniform Submission Agreement signed by Nancy F. Talbot as trustee: March 1, 2005

Claimant The Judith Fisher Freed Living Trust dated 12/19/66's Uniform Submission Agreement signed by Judith Fisher Freed as trustee: February 25, 2005

Claimant The Judith Fisher Freed Living Trust dated 12/19/66's Uniform Submission Agreement signed by Robert Fisher as trustee: February 28, 2005

Statement of Answer filed by Respondent: September 6, 2005

Respondent's Uniform Submission Agreement signed: September 6, 2005

CASE SUMMARY

Claimants alleged breach of contract, breach of fiduciary duty, negligence, and failure to supervise. Claimants' claims involved securities including Vivendi stock and unspecified Class B mutual funds.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$3,150,000.00 in compensatory damages, interest, damages computed on a well managed account theory, return of all fees and commissions, emotional distress damages, and costs including legal fees, expert witness fees, filing fees, and hearing session deposits.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

In the Statement of Claim, Claimants indicated that they had previously filed an NASD arbitration against Clearing Services of America, Inc., among others. Claimants stated that the prior arbitration, case number 02-03569, was stayed as against Clearing Services of America, Inc. pursuant to section 362 of the Bankruptcy Code, 11 U.S.C. § 362, in accordance with an order entered on September 8, 2003 in the United States District Court for the Eastern District of Missouri in a liquidation proceeding instituted against Clearing Services of America, Inc. by the Securities Investor Protection Corporation. Claimants further stated that on November 5, 2004, the Bankruptcy Court issued its order lifting the stay so as to permit Claimants to proceed against Clearing Services of America, Inc. to the extent of its available insurance, i.e., policies of insurance issued by American International Specialty Lines Insurance Company, a subsidiary of AIG.

At the evidentiary hearing, the parties stipulated through counsel that any award to Claimants should be reduced by a total of \$150,000.00, representing an amount received from another party with respect to claims made by these Claimants in another related proceeding.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimants Lance R. Freed, Judith Fisher Freed, and The Freed Living Trust dated 5/9/97 the sum of \$1,225,000.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant The Judith Fisher Freed Living Trust dated 12/19/66 the sum of \$165,000.00 in compensatory damages.
- 3) Respondent is liable to and shall pay Claimant Lance R. Freed IRA the sum of \$170,000.00 in compensatory damages.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Clearing Services of America, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: December 16, 2005 1 session	
1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: October 10, 2005 1 session	
4 Hearing sessions @ \$1,200.00/session	= \$ 4,800.00
Hearings: January 23, 2006 2 sessions	
January 24, 2006 2 sessions	
Total Forum Fees	= \$ 6,450.00

The Panel assessed \$6,450.00 of the forum fees to Respondent.

Fee Summary


1. Claimants are charged jointly and severally with the following fees and costs:	
Initial Claim Filing Fee	= \$ 600.00
Less Waiver of Initial Claim Filing Fee	= \$(600.00)
Less payments	= \$(1,200.00)
Refund Due Claimants	= \$(1,200.00)
2. Respondent is charged with the following fees and costs:	
Member Fees	= \$ 8,550.00
Forum Fees	= \$ 6,450.00
Total Fees	= \$15,000.00
Less payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$15,000.00

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

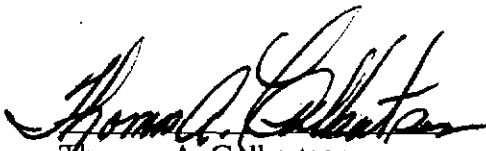
ARBITRATION PANEL

Kenneth E. Owen	-	Public Arbitrator, Presiding Chair
Thomas A. Culbertson	-	Public Arbitrator
Adolph Joseph Bellantoni	-	Non-Public Arbitrator

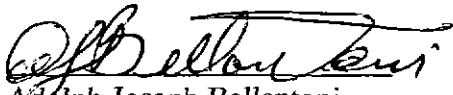
Concurring Arbitrators' Signatures


Kenneth E. Owen
Chair, Public Arbitrator

January 25, 2006
Signature Date


Thomas A. Culbertson
Public Arbitrator

1/25/06
Signature Date


Adolph Joseph Bellantoni
Non-Public Arbitrator

1/25/06
Signature Date

1/25/06
Date of Service