

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Richard Schaller and Richard Schaller Living Trust (Claimants) vs. Henry P. Cerruti and Northwestern Mutual Investment Services, LLC (Respondents)

Case Number: 05-01393

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Richard Schaller ("Schaller") and Richard Schaller Living Trust ("Living Trust") hereinafter collectively referred to as "Claimants": David A. Gabay, Esq., Law Offices of David A. Gabay, Bohemia, NY.

Respondent Henry P. Cerruti ("Cerruti"): Lisa L. Shrewsberry, Esq., Traub Eglin Lieberman Straus LLP, Hawthorne, NY.

Respondent Northwestern Mutual Investment Services, LLC ("Northwestern"): Norman L. Tolle, Rivkin Radler LLP, Uniondale, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 15, 2005.

Claimant Schaller signed the Uniform Submission Agreement: April 15, 2005.

Claimant Living Trust signed the Uniform Submission Agreement: April 15, 2005.

Statement of Answer filed by Cerruti on or about: July 15, 2005.

Cerruti signed the Uniform Submission Agreement: July 14, 2005.

Statement of Answer filed by Northwestern on or about: July 14, 2005.

Northwestern signed the Uniform Submission Agreement: July 14, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability, failure to supervise, breach of contract, and breach of fiduciary duty. The causes of action relate to unspecified high risk stocks.

Unless specifically admitted in his Answer, Respondent Cerruti denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent Northwestern denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$65,000.00 plus interest, and punitive damages in the amount of \$180,000.00.

Respondent Cerruti requested dismissal of the Statement of Claim in its entirety.

Respondent Northwestern requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants did not appear at the March 8, 2006 hearing. At the hearing, Respondent Cerruti made a Motion for Expungement of this matter from his CRD record, and Respondents Cerruti and Northwestern, respectively, moved the Panel to assess forum fees against Claimant. The Panel granted both of the foregoing motions.

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.

AWARD

After considering the pleadings, 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:

1. Claimants' claims are dismissed in their entirety with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Cerruti's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Cerruti 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 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

3. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$ 300.00

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, Northwestern Mutual Investment Services, LLC is a party.

Member surcharge = \$ 1,700.00

Pre-hearing Process Fee = \$ 750.00

Hearing Process Fee = \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 20-22, 2005, adjournment requested by Respondent Cerruti

Claimants' share, jointly and severally = \$ 562.50

Respondents' share, jointly and severally = \$ 562.50

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: November 28, 2005 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00/session = \$ 2,250.00

Pre-hearing conference: October 7, 2005 1 session

December 16, 2005 1 session

One (1) Hearing session @ \$1,125.00/session = \$ 1,125.00

Hearing Date: March 8, 2006 1 session

Total Forum Fees = \$ 3,825.00

1. The Panel has assessed \$3,825.00 of the forum fees to Claimants, jointly and severally.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Adjournment Fees = \$ 562.50

Forum Fees = \$ 3,825.00

Total Fees	= \$ 4,687.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,262.50

2. Respondent Northwestern is solely liable for:

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Northwestern and Respondent Cerruti are jointly and severally liable for:

<u>Adjournment Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

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

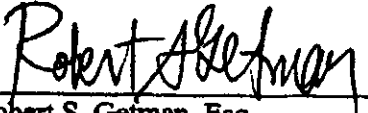
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ARBITRATION PANEL

Robert S. Getman, Esq.	-	Public Arbitrator, Presiding Chairperson
Harold I. Geringer, Esq.	-	Public Arbitrator
James J. O'Donnell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.


 Robert S. Getman, Esq.
 Public Arbitrator, Presiding Chairperson

3/8/06
 Signature Date

 Harold I. Geringer, Esq.
 Public Arbitrator

 Signature Date

 James J. O'Donnell
 Non-Public Arbitrator

 Signature Date

March 13, 2006
 Date of Service (For NASD Dispute Resolution use only)

Post-It® Fax Note	7671	Date <u>3/8/06</u>	# of pages <u>1</u>
To <u>Nicole Haynes, Esq</u>	From <u>R Getman</u>	Co./Dept.	Co.
Phone #	Phone #	Fax #	Fax #
Fax # <u>301-527-4873</u>			

ARBITRATION PANEL

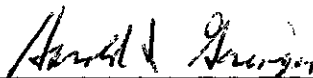
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James J. O'Donnell	-	Non-Public Arbitrator

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Robert S. Getman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Harold I. Geringer, Esq.
Public Arbitrator

March 10, 2006

Signature Date

James J. O'Donnell
Non- Public Arbitrator

Signature Date

March 13, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Robert S. Getman, Esq.	-	Public Arbitrator, Presiding Chairperson
Harold I. Geringer, Esq.	-	Public Arbitrator
James J. O'Donnell	-	Non-Public Arbitrator

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Robert S. Getman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Harold I. Geringer, Esq.
Public Arbitrator

Signature Date


James J. O'Donnell
Non-Public Arbitrator

3/9/06
Signature Date

March 13, 2006
Date of Service (For NASD Dispute Resolution use only)