

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Kimberly Marie Larson

v.

05-01435

Minneapolis, Minnesota

Respondents

American Express Financial Advisors,
Erin Marie Sweeney and Jeffrey Allen Bartleson

NATURE OF DISPUTE

Customer v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Kimberly Marie Larson ("**Claimant**") was represented by Robert J. Hajek, Esq., of Warchol, Berndt & Hajek, P.A., Minneapolis, Minnesota.

American Express Financial Advisors ("**American Express**"), Erin Marie Sweeney ("**Sweeney**"), Jeffrey Allen Bartleson ("**Bartleson**"), hereinafter collectively referred to as "Respondents," were represented by Gary R. Irwin, Esq., of Edgerton, Weaver & Irwin, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about March 3, 2005. The Submission Agreement of Claimant was signed on or about February 28, 2005.

The Statement of Answer was filed jointly by Respondents on or about May 25, 2005. The Submission Agreement of American Express was signed on or about April 25, 2005. The Submission Agreement of Bartleson was signed on or about May 19, 2005.

CASE SUMMARY

Claimant asserted causes of action including the following: violation of NASD Conduct Rules 2110, 2120, 2310 and 3010; respondeat superior violation of Minn. Stat. §§ 80A.01-80A.03; breach of fiduciary duty; negligence; and common law fraud. Claimant alleged that Respondents made unsuitable investments in various unspecified small and large cap growth stocks, international stocks and low grade corporate bonds. Claimant alleged that Respondents churned her account for the purpose of generating commissions and that

Sweeney's actions, in relation to Claimant's accounts, went unsupervised and, as a result, enabled the losses to occur. Claimant also alleged that she suffered damages resulting from an investment in a restaurant with Sweeney's father, which subsequently was sold for a loss.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimant failed to state a claim upon which relief could be granted; Claimant failed to demonstrate any actual damages; the alleged damages claimed by Claimant was not the result of any act or omission of the Respondents; Claimant received confirmations and written statements reflecting all transactions in her account and did not object to such information. Claimant ratified and waived objection to all transactions or lack of transactions in her account; stock market events and fluctuations occurred, and were not caused by Respondents, and constitute a superseding or intervening cause of some or all of the alleged damages; there was no negligence on the part of Respondents in handling Claimant's accounts; Claimant's claims are barred, in part or in whole, by the applicable statutes of limitations, and by the doctrine of laches; and any and all duties owed to Claimant by Respondents were fully and faithfully performed.

RELIEF REQUESTED

Claimant requested an award of \$433,616.68 in compensatory damages, plus \$100,000 in punitive damages, attorneys' fees, interest, costs and any other relief the panel deemed just and equitable.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

At the arbitration hearing, Claimant agreed to dismiss all claims asserted against Respondent, Jeffrey Allen Bartleson, with prejudice. Claimant stated that Bartleson was added to this claim in error and agreed to have this matter expunged from Bartleson's CRD record.

Respondent, Erin Marie Sweeney, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the Statement of Claim and represented at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

1. Claimant's claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Jeffrey Allen Bartleson's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Jeffrey Allen Bartleson, 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 arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;

3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

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 = \$ 375

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 American Express Financial Advisors.

Member surcharge = \$ 2,250
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 4,000

Adjournment Fees

Adjournments granted during these proceedings:

February 15-17, 2006 - Adjournment requested by all parties

Fee Assessed by the Panel

(50% Claimant / 50% Respondents, jointly and severally) = \$ 1,200

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 = \$ 1,200

Pre-hearing conference: August 2, 2005 1 session

Seven (7) Hearing sessions with Panel x \$ 1,200 = \$ 8,400

Hearing Dates: May 22, 2006 2 sessions
May 23, 2006 2 sessions
May 24, 2006 3 sessions

Total Forum Fees = \$ 9,600

The Arbitration Panel has assessed \$ 4,800 of the forum fees to Kimberly Marie Larson.

The Arbitration Panel has assessed \$ 4,800 of the forum fees jointly and severally to American Express Financial Advisors and Erin Marie Sweeney.

FEE SUMMARY

Claimant, Kimberly Marie Larson, is liable for:

Initial Filing Fee	= \$ 375
Adjournment Fees	= \$ 600
Forum Fees	= \$ 4,800
Total Fees	= \$ 5,775
Less payments	= \$ 1,575
Balance Due NASD Dispute Resolution	= \$ 4,200

Respondent, American Express Financial Advisors, is liable for:

Member Fees	= \$ 7,000
Total Fees	= \$ 7,000
Less payments	= \$ 6,350
Balance Due NASD Dispute Resolution	= \$ 650

Respondents, American Express Financial Advisors, Erin Marie Sweeney and Jeffrey Allen Bartleson, are jointly and severally liable for:

Adjournment Fee	= \$ 600
Total Fees	= \$ 600
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 600

Respondents, American Express Financial Advisors and Erin Marie Sweeney, are jointly and severally liable for:

Forum Fees	= \$ 4,800
Total Fees	= \$ 4,800
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 4,800

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

ARBITRATION PANEL

N. Dean Leininger - Public Arbitrator, Presiding Chair
Michael W. Schley - Public Arbitrator
Paul J. Hennen - Non-Public Arbitrator

Concurring Arbitrators:

N. Dean Leininger
Public Arbitrator, Presiding Chair

Signature Date

Michael W. Schley
Public Arbitrator

Signature Date

Paul J. Hennen
Non-Public Arbitrator

Signature Date

5/31/06
Date of Service (NASD use only)

ARBITRATION PANEL

N. Dean Leininger - Public Arbitrator, Presiding Chair
Michael W. Schley - Public Arbitrator
Paul J. Hennen - Non-Public Arbitrator

Concurring Arbitrators:

N. Dean Leininger
N. Dean Leininger
Public Arbitrator, Presiding Chair

5/30/06
Signature Date

Michael W. Schley
Michael W. Schley
Public Arbitrator

Signature Date

Paul J. Hennen
Paul J. Hennen
Non-Public Arbitrator

Signature Date

5/21/06
Date of Service (NASD use only)

ARBITRATION PANEL

N. Dean Leininger - Public Arbitrator, Presiding Chair
Michael W. Schley - Public Arbitrator
Paul J. Hennen - Non-Public Arbitrator

Concurring Arbitrators:

N. Dean Leininger
Public Arbitrator, Presiding Chair

Signature Date




Michael W. Schley
Public Arbitrator



Signature Date

Paul J. Hennen
Non-Public Arbitrator

Signature Date



Date of Service (NASD use only)

ARBITRATION PANEL

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Michael W. Schley - Public Arbitrator
Paul J. Hennen - Non-Public Arbitrator


Concurring Arbitrators:

N. Dean Leininger
Public Arbitrator, Presiding Chair

Signature Date

Michael W. Schley
Public Arbitrator

Signature Date


Paul J. Hennen
Non-Public Arbitrator

MAY 30, 2006
Signature Date

5/31/06
Date of Service (NASD use only)