

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

The George C. Moench Charitable Remainder Trust
Dr. George C. Moench, Trustee

Case Number: 05-02836

Names of the Respondents

Ameriprise Financial Services
Ruth Gordon

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For The George C. Moench Charitable Remainder Trust, Dr. George C. Moench, Trustee, hereinafter referred to as "Claimant": Nicholas D. Thomas, Esq., Vero Beach, Florida.

For Ameriprise Financial Services ("Ameriprise") and Ruth Gordon ("Gordon"), hereinafter collectively referred to as "Respondents": Niels P. Murphy, Esq., Murphy & Anderson, P.A., Jacksonville, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 31, 2005.

Claimant signed the Uniform Submission Agreement: May 18, 2005.

Motion for More Definitive Statement of Claim, Motion to Strike Request for Punitive Damages, Statement of Answer, and Defenses and Affirmative Defenses filed by Respondents on or about: July 22, 2005.

Respondent Ameriprise did not file an executed Uniform Submission Agreement.

Respondent Gordon did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of contract; 2) common law fraud; 3) breach of fiduciary duty; 4) negligence; and 5) gross negligence. The causes of action relate to investments in the following mutual funds in Claimant's account: a) American Express New Dimensions Fund, Class B; b) AIM Blue Chip Fund, Class A; c) Goldman Sachs Internet Tollkeeper Fund, Class A; and d) Putnam OTC Emerging Growth Fund, Class A.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in an amount between \$30,000.00 and \$50,000.00; 2) interest at the statutory rate of 8%; 3) punitive damages; 4) costs; and 5)

reasonable attorneys' fees.

Respondents requested that the undersigned arbitrators (the "Panel"): 1) enter an order striking Claimant's request for punitive damages; and 2) enter an award dismissing the Statement of Claim, with prejudice and awarding Respondents: a) attorneys' fees pursuant to Section 517.211, Fla. Stat.; b) costs; c) expenses; and d) such other relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the evidentiary hearing, Respondents made an oral motion to dismiss Claimant's claims at the conclusion of Claimant's case. After considering the motion and Claimant's response thereto, the Panel denied the motion.

At the evidentiary hearing, Respondent Gordon made an oral motion for expungement of her CRD records, which was granted by the Panel.

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, 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. All of Claimant's claims are denied.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Gordon's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Gordon 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: a) the claim is clearly erroneous; and b) Respondent Gordon did not commit the conduct alleged by Claimant.

3. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and the parties' respective requests for attorneys' fees, are denied.

FEEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 175.00
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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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Ameriprise is a party and a member firm.

Member Surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

There were no injunctive relief fees assessed during these proceedings.

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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Hearing sessions @ \$600.00 per session	= \$ 2,400.00
Hearing Dates:	
April 18, 2006	2 sessions
April 19, 2006	2 sessions
Total Forum Fees	= \$ 2,400.00

The Panel has assessed forum fees in the amount of \$2,400.00 to Claimant.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,575.00
Less payments	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

Respondent Ameriprise is solely liable for:

Member Fees	= \$ 2,625.00
Forum Fees	= \$ 0.00
Total Fees	= \$ 2,625.00
Less payments	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Richard J. Fuller, CPA	-	Public Arbitrator, Presiding Chairperson
Frances Johnson Wright, J.D.	-	Public Arbitrator
Andrew G. Fellios	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Richard J. Fuller, CPA
Public Arbitrator, Presiding Chairperson

4/24/06
Signature Date

_____/s/_____
Frances Johnson Wright, J.D.
Public Arbitrator

4/25/06
Signature Date

_____/s/_____
Andrew G. Fellios
Non-Public Arbitrator

4/25/06
Signature Date

4/26/06
Date of Service (For NASD Dispute Resolution office use only)

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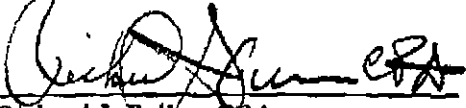
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Public Arbitrator, Presiding Chairperson

4/24/06
Signature Date

Frances Johnson Wright, J.D.
Public Arbitrator.

Signature Date

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 Arbitration No. 05-02836
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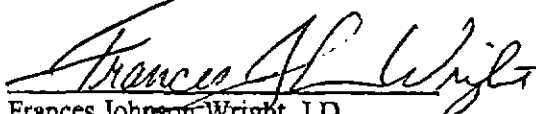
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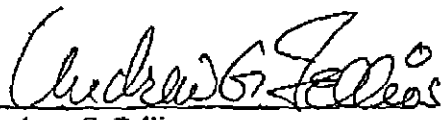
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