

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Harold Black and
Carolyn Swails

Case Number: 05-02973

Name of the Respondents

Ameriprise Financial Services, Inc. and
Christopher D. Leyden

Hearing Site: Des Moines, Iowa

NATURE OF THE DISPUTE

Customers vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants Harold Black ("Black") and Carolyn Swails ("Swails"), hereinafter collectively referred to as "Claimants": Gail E. Boliver, Esq., of the Boliver Law Firm, located in Marshalltown, Iowa.

Respondents Ameriprise Financial Services, Inc. ("Ameriprise") and Christopher D. Leyden ("Leyden"), hereinafter collectively referred to as "Respondents": Jesse Linebaugh, Esq., of the firm of Faegre & Benson LLP, located in Des Moines, Iowa.

CASE INFORMATION

Statement of Claim filed: June 7, 2005.

Claimants signed the Uniform Submission Agreement: June 1, 2005.

Statement of Answer filed by Respondents on: August 5, 2005.

Respondent Ameriprise signed the Uniform Submission Agreement: August 9, 2005.

Respondent Leyden signed the Uniform Submission Agreement: June 27, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; violations of Iowa Securities Act; violations of the NASD Rules of supervision and suitability;

misrepresentation, including negligent misrepresentation and constructive fraud; negligent supervision and *repondeat superior*; and breach of contract. These causes of action resulted from Respondents alleged mismanagement of the Claimants' retirement portfolios, including allegations of unsuitable asset allocation and investments in unsuitable mutual funds. Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Statement of Claim fails to state a claim upon which relief can be granted;
2. The claims are barred by the doctrines of waiver, ratification and estoppel, as well as the applicable statutes of limitations;
3. The Claimants assumed the risks inherent in their investments since they made these investments with full knowledge and information about these risks;
4. To the extent the Claimants have suffered any losses, these losses were not caused by Respondents, but by Claimants' investment decisions and general market movements;
5. The Claimants are not entitled to attorneys' fees under the Iowa Securities Act or otherwise;
6. The Claimants failed to take any reasonable steps to mitigate damages;
7. The allegations in the Statement of Claim fail to justify an award of punitive damages; and,
8. The Claimants may not assert any claims arising under NASD rules.

RELIEF REQUESTED

Claimants Harold Black and Carolyn Swails requested:

Compensatory Damages	Approximately \$415,000.00
Punitive Damages	As determined by the Panel pursuant to Iowa law
Attorneys' Fees	Pursuant to the Iowa Securities Act
Other Costs	As determined by the Panel
Other Monetary/Non-Monetary Relief if any:	Including expert fees.

Respondents Ameriprise Financial Services, Inc. and Christopher D. Leyden requested that the matter be dismissed as a matter of law.

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. Respondent Ameriprise Financial Services, Inc. is liable for and shall pay to Claimant Harold Black the sum of \$28,100.00 as compensatory damages;
2. Respondent Ameriprise Financial Services, Inc. is liable for and shall pay to

- Claimant Carolyn Swails the sum of \$12,400.00 as compensatory damages;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Christopher D. Leyden's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Christopher D. Leyden 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;
 4. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated herein; and,
 5. 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
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Ameriprise Financial Services, Inc. is a party and the following member fees are assessed:

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: None.

Forum Fees and Assessments

The Panel 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:

One (1) Decision on discovery-related motions on the papers
with One (1) arbitrator @ \$200.00 = \$ 200.00

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: February 6, 2006 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$ 2,250.00
Pre-hearing conferences: October 6, 2005 1 session
December 12, 2005 1 session

Eight (8) Hearing sessions @ \$1,125.00 = \$ 9,000.00
Hearing Dates: April 17, 2006 2 sessions
April 18, 2006 2 sessions
April 19, 2006 2 sessions
April 20, 2006 2 sessions

Total Forum Fees = \$11,900.00

The Panel has assessed \$5,950.00 of the forum fees, jointly and severally, to Claimants Harold Black and Carolyn Swails, and the remaining \$5,950.00 of the forum fees to Respondent Ameriprise Financial Services, Inc.

FEE SUMMARY

Claimants Harold Black and Carolyn Swails, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5,950.00
Total Fees	= \$ 6,250.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 4,825.00

Respondent Ameriprise Financial Services, Inc. is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,950.00
Total Fees	= \$11,150.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 5,950.00

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

ARBITRATION PANEL

Jack J. Herman, JD - Public Arbitrator, Presiding Chairperson
Edward Louis Koven - Public Arbitrator
Henry Kirke Cushing - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jack J. Herman, JD
Public Arbitrator, Presiding Chairperson

Signature Date

Edward Louis Koven
Public Arbitrator

Signature Date

Henry Kirke Cushing
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 0302977

Case No. 0302977

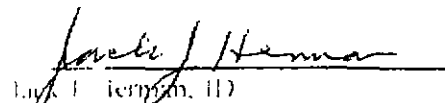
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Public Arbitrator, Presiding Chairperson

4/28/06
Signature Date

Edward Louis Koven

Public Arbitrator

Signature Date

Henry Kirke Cushing

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