

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Jerry Drake and Claudia Drake

v.

05-03329
Denver, Colorado

Respondent

Dominion Investor Services, Inc.

NATURE OF DISPUTE

Customers v. Member Firm

REPRESENTATION OF PARTIES

Jerry Drake and Claudia Drake, hereinafter collectively referred to as ("**Claimants**") were represented by Richard A. Lewins, Esq., of Burg, Simpson, Eldredge, Hersh & Jardine, P.C., Englewood, Colorado.

Dominion Investor Services, Inc. ("**Respondent**") was represented by George Bromley, Esq., of the Law Office of George Bromley, San Antonio, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about June 28, 2004. The Submission Agreement of Claimants was signed on or about July 14, 2005.

The Statement of Answer was filed by Respondent on or about September 8, 2005. The Submission Agreement of Respondent was signed on or about September 8, 2005 by Rix C. Smith, President, Dominion Investor Services.

CASE SUMMARY

Claimants asserted causes of action including the following: common law fraud, violation of state and federal securities laws, negligence, breach of fiduciary duty, failure to supervise and breach of contract. The causes of action related to alleged mismanagement and improper investment advice relating to Claimants' brokerage account maintained by Respondent. Claimants alleged that, despite their request to be invested conservatively, with a focus on the preservation of capital, Respondent implemented an aggressive investment strategy including an unsuitable mutual fund, Russell Aggressive Strategy Fund, and an unsuitable variable annuity fund. Claimants further alleged Respondent failed

to disclose their customer complaint to NASD, and did not take any corrective measures or attempt to rectify the situation prior to the filing of the arbitration claim.

Respondent denied the allegations set forth in the Statement of Claim and asserted defenses including the following: all business transacted with Claimants was at Claimants' expressed direction, request and/or knowledge; Claimants knew the account balance of the security product and/or products that they purchased would vary and may increase or decrease over time, and that the dollar amounts were not guaranteed; Claimants were provided ample information regarding the security product and/or products purchased; per Claimants' account application, the security product and/or products that Claimants purchased were suitable for their stated investment objectives; and all transactions initiated on behalf of Claimants were transacted in accordance with all statutory and industry laws, rules and regulations, including but not limited to proper supervision.

RELIEF REQUESTED

Claimants requested an award of \$250,000 in compensatory damages, plus, pre and post-judgment interest, costs, attorneys' fees and any other relief the panel deemed just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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. Respondent, Dominion Investor Services, Inc. is liable for and shall pay to Claimants, Jerry Drake and Claudia Drake, the sum of One Hundred and Eighty Two Thousand Dollars and No Cents (\$182,000.00) in compensatory damages;
2. Respondent, Dominion Investor Services, Inc., is liable for and shall pay to Claimants, Jerry Drake and Claudia Drake, interest on the above-stated sum at the

rate of 7% per annum from and including June 28, 2004, through and including the date this Award is paid in full;

3. Respondent, Dominion Investor Services, Inc., is liable for and shall pay to Claimants, Jerry Drake and Claudia Drake, the sum of Twelve Thousand Dollars and No Cents (\$12,000.00) in expert witness fees; and
4. 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 and attorneys' fees, are denied with prejudice.

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 = \$ 300

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 Dominion Investor Services, Inc.

Member surcharge = \$ 1,700
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 2,750

Forum Fees and Assessments

The Arbitration Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery related Motion on the papers. 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:

Two (2) Decisions on discovery-related motions
on the papers by the Chairperson x \$200 = \$ 400

Claimants submitted a Motion to Quash on or about April 4, 2006.

Claimants submitted a Motion to Compel on or about March 31, 2006.

One (1) Pre-hearing session with Panel x \$ 1,125 = \$ 1,125

Pre-hearing conference: December 12, 2005 1 session

Seven (7) Hearing sessions with Panel x \$ 1,125 = \$ 7,875

Hearing Dates:	May 9, 2006	2 sessions
	May 10, 2006	2 sessions
	May 11, 2006	2 sessions
	May 12, 2006	1 session

Total Forum Fees = \$ 9,400

The Arbitration Panel has assessed \$ 4,700 of the forum fees jointly and severally to Jerry Drake and Claudia Drake.

The Arbitration Panel has assessed \$ 4,700 of the forum fees to Dominion Investor Services, Inc.

FEE SUMMARY

Claimants, Jerry Drake and Claudia Drake, are jointly and severally liable for:

Initial Filing Fee	= \$ 300
Forum Fees	= \$ 4,700
Total Fees	= \$ 5,000
Less payments	= \$ 1,425
Balance Due NASD Dispute Resolution	= \$ 3,575

Respondent, Dominion Investor Services, Inc., is liable for:

Member Fees	= \$ 5,200
Forum Fees	= \$ 4,700
Total Fees	= \$ 9,900
Less payments	= \$ 5,200
Balance Due NASD Dispute Resolution	= \$ 4,700

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

Mari C. Bush, Esq. - Public Arbitrator, Presiding Chair
Baldwin Ranson - Public Arbitrator
William A. Conklin - Non-Public Arbitrator

Concurring Arbitrators:

Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Baldwin Ranson
Public Arbitrator

Signature Date

William A. Conklin
Non-Public Arbitrator

Signature Date

5/17/06
Date of Service (NASD use only)

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Baldwin Ranson - Public Arbitrator
William A. Conklin - Non-Public Arbitrator

Concurring Arbitrators:

Mari C. Bush
Mari C. Bush, Esq.
Public Arbitrator, Presiding Chair

5-16-06
Signature Date

Baldwin Ranson
Public Arbitrator

Signature Date

William A. Conklin
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Baldwin Ranson
Baldwin Ranson
Public Arbitrator

Signature Date

16 May 2008
Signature Date

William A. Conklin
Non-Public Arbitrator

Signature Date

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Public Arbitrator

Signature Date



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Non-Public Arbitrator

5-16-06

Signature Date

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