

Award NASD Dispute Resolution

In the Matter of the Arbitration Between:

Richard Vehring and The Vivian Vehring Decedent Trust, Claimants v. IDS Life Insurance Company, American Express Financial Corporation n/k/a Ameriprise Financial, Inc., American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc. and Jason Gerald Knight, Respondents

Case Number: 05-04997

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Customers v. Members and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

**David G. Derickson, Esq.
Derickson Law Offices
Phoenix, Arizona**

For Respondents:

**Fiona B. Ruthven, Esq.
Faegre & Benson LLP
Minneapolis, Minnesota**

CASE INFORMATION

Statement of Claim filed: September 22, 2005

Claimant Richard Vehring's Uniform Submission Agreement signed: September 21, 2005

Claimant The Vivian Vehring Decedent Trust's Uniform Submission Agreement signed: October 5, 2005

Motion to Stay Arbitration filed by Respondents: December 27, 2005

Motion to Dismiss filed by Respondents: February 24, 2006

Respondent American Express Financial Corporation n/k/a Ameriprise Financial, Inc.'s Uniform Submission Agreement signed: None submitted

Respondent IDS Life Insurance Company's Uniform Submission Agreement signed: None submitted

Respondent American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc.'s Uniform Submission Agreement signed: None submitted

Respondent Jason Gerald Knight's Uniform Submission Agreement signed: None submitted

CASE SUMMARY

Claimants alleged breach of contract, theft by conversion, and racketeering violations of A.R.S. §13-2314.04. Claimants' allegations involved investment in a deferred annuity contract.

Respondents alleged that Claimants' claims are barred because they are encompassed within a class action settlement which arose out of the class action lawsuit of Benacquisto, et al v. American Express Financial Corp., et al and by NASD Code of Arbitration Procedure Rule 10301(d)(2).

RELIEF REQUESTED

Claimants requested \$129,182.66 in compensatory damages, unspecified punitive damages, treble damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about December 30, 2005, Respondents moved the Panel to stay the arbitration proceedings until the United States District Court, District of Minnesota (hereinafter "the Court") ruled upon Respondents' Motion to Enforce Class Action Settlement as to Claimants' claims. On or about February 23, 2006, the Court issued its final order and permanent injunction permanently enjoining and barring Claimants from filing, commencing, prosecuting, participating in or receiving any benefits from any lawsuits or arbitration relating to the deferred annuity contract No. 93006395001, which was the subject of this arbitration.

On or about February 24, 2006, Respondents moved the Panel for an Order Dismissing Claimants' Claims.

On or about March 31, 2006, Claimants filed a Motion for Clarification of the February 23, 2006 Order in the United States District Court, District of Minnesota. On or about April 11, 2006, the Court issued an Order denying Claimants' Motion for Clarification.

On or about June 26, 2006, Claimants moved the Panel for Leave to Amend their Statement of Claim. On or about July 27, 2006, after due deliberation in an executive session, the Panel considered Claimants' request as well as the Court's Ruling on Claimants' Motion for Clarification of its February 23, 2006 Order. On July 27, 2006, the Panel issued an Order dismissing Claimants' claim with prejudice.

Respondents, American Express Financial Corporation n/k/a Ameriprise Financial, Inc., IDS Life Insurance Company, American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc. and Jason Gerald Knight did not file with the NASD Dispute Resolution, properly executed submission agreements; however, all said Respondents are required to submit to arbitration and are bound by the determination of the Panel on all issues submitted.

The Panel 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 Orders of the Court on Respondents' Motion to Enforce Class Action Settlement and Claimants' Motion for Clarification of the Court's February 23, 2006 Order, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety and dismissed with prejudice.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee

= \$ 300.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm American Express Financial Corporation n/k/a Ameriprise Financial, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

The member firm IDS Life Insurance Company is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

The member firm American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Forum Fees and Assessments

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

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$1,125.00
Pre-hearing conference: February 16, 2006 1 session

Total Forum Fees	= \$1,125.00
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1. The Panel assessed \$562.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$(1,800.00)
Refund Due Claimants	= \$(937.50)

2. Respondent American Express Financial Corporation n/k/a Ameriprise Financial, Inc. is charge with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(1,887.50)
Balance Due NASD Dispute Resolution	= \$ 3,312.50

3. Respondent IDS Life Insurance Company is charged with the following fees and costs:

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

4. Respondent American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc. is charged with the following fees and costs:

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

5. Respondents IDS Life Insurance Company, American Express Financial Corporation n/k/a Ameriprise Financial, Inc., American Express Financial Advisors, Inc. n/k/a Ameriprise Financial Services, Inc. and Jason Gerald Knight are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 562.50
<u>Less Payments by Ameriprise Financial, Inc.</u>	= \$(562.50)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

John J. Balitis, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Pamela M. Katzenberg, Esq.	-	Public Arbitrator
Peter Kay	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Balitis, Jr., Esq.
Chair, Public Arbitrator

Signature Date

Pamela M. Katzenberg, Esq.
Public Arbitrator

Signature Date

Peter Kay
Non-Public Arbitrator


Signature Date

Date of Service

ARBITRATION PANEL

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Pamela M. Katzenberg, Esq.	-	Public Arbitrator
Peter Kay	-	Non-Public Arbitrator

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Chair, Public Arbitrator



Signature Date

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Public Arbitrator

Signature Date

Peter Kay
Non-Public Arbitrator

Signature Date



Date of Service

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Peter Kay	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Balitis, Jr., Esq.
Chair, Public Arbitrator

Signature Date



Pamela M. Katzenberg, Esq.
Public Arbitrator

8/4/2006

Signature Date

Peter Kay
Non-Public Arbitrator

Signature Date

8/8/06

Date of Service

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John J. Balitis, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Pamela M. Katzenberg, Esq.	-	Public Arbitrator
Peter Kay	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Balitis, Jr., Esq.
Chair, Public Arbitrator

Signature Date

Pamela M. Katzenberg, Esq.
Public Arbitrator

Signature Date



Peter Kay
Non-Public Arbitrator

August 4, 2006
Signature Date

8/8/06
Date of Service