

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of Claimant  
Inversiones Interven, Ltd.

Case Number: 05-06544

Name of Respondent  
National Financial Services, LLC

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Inversiones Interven, Ltd., hereinafter referred to as "Claimant": Howard R. Behar, Esq., Howard R. Behar, P.A., Aventura, Florida.

For National Financial Services, LLC, hereinafter referred to as "Respondent": Michael G. Shannon, Esq., Brown Raysman Millstein Felder & Steiner, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: December 22, 2005.

Claimant signed the Uniform Submission Agreement on: December 9, 2005.

Answer to the Statement of Claim and Request for Dismissal filed on or about: March 8, 2006.

Respondent signed the Uniform Submission Agreement on: February 10, 2006.

Claimant's Response to Respondent's Motion to Dismiss the Statement of Claim filed on or about: June 6, 2006.

Respondent's Reply in Further Support of Motion to Dismiss Claim filed on or about: June 15, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) negligence; 2) breach of fiduciary and contractual duties; and 3) negligent failure to supervise. The causes of action relate to Claimant's investment in mutual funds, including but not limited to, Aim Mid Cap Equity, American Balanced Fund F, American Balanced Fund A, American Investment Company of America, American Euro Pac Growth and Fidelity Advisor Dividend.

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

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$1,000,000.00, or such other amount as is proven at the final hearing; 2) interest; 3) costs, expenses and disbursements, including expert witness fees; 4) unspecified punitive damages; 5) attorneys' fees; and 6) such other relief as the undersigned arbitrators (the "Panel") deem just and proper.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

After considering the pleadings and the argument presented at the July 14, 2006 pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent are hereby dismissed in their entirety, without prejudice.
2. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and attorneys' fees, are denied.

### **FEES**

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	= \$ 375.00
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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, Respondent is a party and a member firm.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00
Total Member Fees	= \$7,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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

Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: April 25, 2006      1 session	
July 14, 2006      1 session	
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Total Forum Fees	= \$2,400.00

The Panel has assessed \$1,200.00 of the forum fees to the Claimant.

The Panel has assessed \$1,200.00 of the forum fees to the Respondent.

### **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 incurred during these proceedings.

### **Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$1,200.00

Total Fees	= \$1,575.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$7,000.00
<u>Forum Fees</u>	<u>= \$1,200.00</u>
Total Fees	= \$8,200.00
<u>Less payments</u>	<u>= \$7,000.00</u>
Balance Due NASD Dispute Resolution	= \$1,200.00

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

**ARBITRATION PANEL**

<i>Gloria O. North, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Carol Ann Anderson, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Bruce M. Alster</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Gloria O. North, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
/s/  
Carol Ann Anderson, Esq.  
Public Arbitrator

\_\_\_\_\_  
July 18, 2006  
Signature Date

\_\_\_\_\_  
/s/  
Bruce M. Alster  
Non-Public Arbitrator

\_\_\_\_\_  
July 18, 2006  
Signature Date

\_\_\_\_\_  
July 18, 2006  
Date of Service (For NASD Dispute Resolution office use only)

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Signature Date

  
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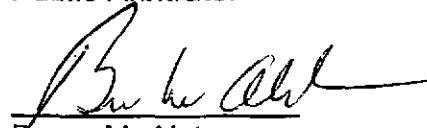
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