

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of Claimants

Vernon A. Geile and Marilyn L. Geile

vs.

Case Number: 06-02637  
Hearing Site: St. Louis, Missouri

Names of Respondents

American Express Financial Advisors, Inc., n/k/a  
Ameriprise Financial Services, Inc., and  
Michael Paul Hughes

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**NATURE OF THE DISPUTE**

Customers vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Vernon A. Geile and Marilyn L. Geile, hereinafter collectively referred to as "Claimants," were represented by Steven W. Koslovsky, Esq., Maryland Heights, Missouri.

American Express Financial Advisors, Inc., n/k/a Ameriprise Financial Services, Inc. ("Ameriprise") and Michael Paul Hughes ("Hughes"), hereinafter collectively referred to as "Respondents," were represented by Roger N. Walter, Esq., Law Office of Morris Laing, Topeka, Kansas.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 30, 2006. The Submission Agreement of Claimants was signed on or about January 2, 2006.

The Statement of Answer was filed jointly by Respondents on or about August 25, 2006. The Submission Agreement of Respondent Ameriprise was signed on or about June 13, 2006. The Submission Agreement of Respondent Hughes was signed on or about June 13, 2006.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; and suitability. The causes of action related to the recommendation and purchase of

unspecified common stocks and equity mutual funds. Claimants alleged that many of these purchases were aggressive in nature and unsuitable given the Claimants' age and financial situation. Claimant alleged these investments lost substantial value beginning in the year 2000.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: any loss or diminution in value of these investments occurred as a result of risks knowingly assumed by Claimants and as a result of market forces beyond the control of Respondents; the claims are barred by the doctrines of laches, waiver, and estoppel; Claimants accepted, ratified, and consented to the transactions and are barred from asserting a claim against Respondents; any damages were caused by the negligence or fault of Claimants and/or other persons and any recovery should be reduced by the comparative fault of Claimant and/or other persons; Claimants' Statement of Claim failed to state a claim upon which relief can be granted; and the claim is barred by the applicable statute of limitations or time limitations required to commence this arbitration.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$250,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded any further relief deemed just and appropriate.

### **OTHER ISSUES CONSIDERED & DECIDED**

At hearing, Arbitrator Richard L. Pearce failed to appear. Pursuant to Rule 10313, the parties agreed to continue the hearing with the remaining two arbitrators.

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, the testimony, and the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including attorneys' fees, is hereby 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	= \$ 300.00
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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. In this matter, the member firm is American Express Financial Advisors, Inc., n/k/a Ameriprise Financial Services, Inc.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing 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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: September 27, 2006	1 session
Three (3) Hearing sessions x \$1,125.00	= \$ 3,375.00
Hearing Dates: January 30, 2007	2 sessions

January 31, 2007 1 session

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Total Forum Fees = \$ 4,500.00

The Panel has assessed \$2,250.00 of the forum fees jointly and severally to Vernon A. Geile and Marilyn L. Geile.

The Panel has assessed \$2,250.00 of the forum fees jointly and severally to American Express Financial Advisors, Inc., n/k/a Ameriprise Financial Services, Inc. and Michael Paul Hughes.

### **FEE SUMMARY**

Claimants, Vernon A. Geile and Marilyn L. Geile, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent, American Express Financial Advisors, Inc., n/k/a Ameriprise Financial Services, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, American Express Financial Advisors, Inc., n/k/a Ameriprise Financial Services, Inc. and Michael Paul Hughes, are jointly and severally liable for:

Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,250.00
Less payments	= \$ 2,750.00
Refund Due Ameriprise	= \$ 500.00

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

**ARBITRATION PANEL**

Mark D. Sadow, Esq. - Public Arbitrator, Presiding Chair  
Brian L. Evans - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

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Mark D. Sadow, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Brian L. Evans  
Non-Public Arbitrator

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Signature Date

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Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Mark D. Sadow, Esq. - Public Arbitrator, Presiding Chair  
Brian L. Evans - Non-Public Arbitrator

Concurring Arbitrators' Signatures:



Mark D. Sadow, Esq.  
Public Arbitrator, Presiding Chair

2/14/07  
Signature Date

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Brian L. Evans  
Non-Public Arbitrator

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Signature Date

2/15/07 men  
Date of Service (For NASD office use only)

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Mark D. Sadow, Esq. - Public Arbitrator, Presiding Chair  
Brian L. Evans - Non-Public Arbitrator

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Mark D. Sadow, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

Brian L. Evans  
Brian L. Evans  
Non-Public Arbitrator

2-14-07  
Signature Date

2/15/07 MDE  
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