

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Shoneen Santesson

and

93-02214

Name of Respondent

Invesco Funds Group, Inc.
David Hawk
William Keithler

REPRESENTATION OF PARTIES

Shoneen Santesson ("**Claimant**") was represented by Irving Pfeffer, Esq., San Francisco, CA.

Invesco Funds Group, Inc. ("**Respondent Invesco**") was represented by Glenn A. Payne, Invesco Funds Group, Denver, CO.

David Hawk ("**Respondent Hawk**") appeared *pro se*.

William Keithler ("**Respondent Keithler**") appeared *pro se*.

CASE INFORMATION

The Statement of Claim was filed on or about June 3, 1994. Submission Agreement of Claimant Shoneen Santesson was signed on May 26, 1994.

Statement of Answer was filed by Respondents Invesco Funds Group, Inc., David Hawk, and William Keithler on or about October 19, 1994. Submission Agreement of Respondent Invesco Funds Group, Inc. was signed on October 18, 1994 by Dan J. Hesser. Submission Agreement of Respondent David Hawk was signed on October 15, 1994. Submission Agreement of Respondent Keithler was signed on October 15, 1994.

HEARING INFORMATION

The hearing was held on Tuesday, May 9, 1995 in Denver, Colorado for a total of three (3) sessions.

CASE SUMMARY

Claimant alleged that a conspiracy existed between her ex-husband, Jason Gervich, and Respondents William Keithler and David Hawk. Specifically, Claimant alleged that the conspiracy involved fraud, violation of SEC regulations and obstruction of justice. The alleged purpose of the conspiracy was to avoid giving a full accounting of IRA accounts to the Claimant in order to pay her a lesser amount of the IRA funds under the marital property settlement.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically stated that the Claimant fails to state a valid claim. In support of their position, Respondents state that after the legal hold had been placed on the IRA account in controversy no transactions were effected or any other activity was engaged in without court authority until the date of distribution. Respondents further stated that upon the division of the account on four separate occasions. Finally, Respondents stated that the Claimant received everything that she was entitled to at the time she was entitled to receive it.

RELIEF REQUESTED

Claimant requested an award of damages in the amount of \$8,614 for having lost critical time when she should have been completing a law school course; \$5,240 from Invesco for negligently and intentionally inflicting emotional distress; \$3,477 or an amount according to the proof at the time of hearing representing damages and court costs related to the Family Court proceedings; treble damages against Respondents Hawk and Keithler for intentional fraud and civil conspiracy; attorneys' fees in an amount according to proof; and such other and further relief as the arbitrators may deem fair and just.

Respondents requested that the claims asserted against them be denied in its entirety and that judgment be entered in their favor.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Invesco asserted a Motion to Dismiss the claim for lack of jurisdiction. After considering the arguments presented on behalf of the parties, the undersigned arbitrators **denied** the motion.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the 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. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session and \$300 for each prehearing conference, if any. There were three (3) sessions x \$500 = \$1,500 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$150 and shall **retain** as forum fees the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimant Shoneen Santesson. The NASD shall retain as the balance due from Shoneen Santesson the sum of \$250 and shall refund the balance of \$200 on deposit with the NASD. Respondents Invesco Funds Group, Inc., David Hawk and William Keithler shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$750 as the balance due for forum fees. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ Gilbert Mc Swain, Esq.

Gilbert McSwain, Esq.
Public Arbitrator, Presiding Chair

June 1, 1995

/s/ Michael E. McCarthy

Michael E. McCarthy
Industry Arbitrator

June 3, 1995

Concurring in part and dissenting in that part dismissing the claims asserted against David Hawk.

/s/ Carl G. Mohr

Carl G. Mohr
Public Arbitrator

May 30, 1995