

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Leonid & Polina Zolotusky

93-03429

Name of Respondent

Piper Jaffray, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on September 1, 1993, Claimants Polina & Leonid Zolotusky, who appeared Pro Se, alleged that in October, 1990 they opened a Prime Account with Respondent Piper Jaffray, Inc. and in 1992 they purchased in their IRA accounts 300 shares of Euro Disney. Claimants further alleged that in March 1993, they received a memo from Respondent regarding "annual foreign custody charges" and that this memo is in contradiction with the "Piper Jaffray Prime Account" booklet received at the time they opened their Prime Account which provides that their IRA accounts are "free of annual custodial fees" and that the fee should be waived.

Respondent Piper Jaffray, Inc. through its in-house counsel, Mark S. Reed, Esq., maintained that it only agreed to waive its customary IRA custodial fee and that Claimants could neither have understood nor reasonably expected that Respondent was somehow prospectively waiving its ability to assess any future and as yet undetermined fees. Respondent further maintained that the Disclosure Statement made clear that additional fees and expenses would be assessed with the maintenance of their IRA accounts.

**RELIEF REQUESTED**

Claimants Polina & Leonid Zolotusky requested a permanent waiver from the charges in Respondent's memo of March 1993 and damages in the amount of \$30.00 for the NASD filing fee.

Respondent Piper Jaffray, Inc. requested that Claimants' request for relief be denied in entirety.

**AWARD**


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William L. Hawes, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 24, 1993 and by the Respondent on November 16, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants Polina & Leonid Zolotusky against Respondent Piper Jaffray, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **WILLIAM L. HAWES**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: March 16, 1994