

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Raymond Hodge, Sr. and Urita Hodge, (Claimants) vs. Richard L. Schooley and VTR Capital, Inc., (Respondents)

Case Number: 98-00250

Hearing Site: New York, NY

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**REPRESENTATION OF PARTIES**

Claimants, Raymond Hodge, Sr. and Urita Hodge, hereinafter referred to as "Claimants": Karyn Hodge, New York, New York.

Respondent, Richard L. Schooley ("Schooley") appeared pro se.

Respondent, VTR Capital, Inc., ("VTR"): William B. Erb, Director of Compliance of VTR, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: January 15, 1998

Addition to Statement of Claim filed on or about: February 11, 1998

Claimants signed the Uniform Submission Agreement: January 5, 1998

Statement of Answer filed by Schooley on or about: December 14, 1998

Schooley signed the Uniform Submission Agreement: December 11, 1998

Statement of Answer filed by VTR on or about: November 5, 1998

VTR signed the Uniform Submission Agreement: December 10, 1998

**CASE SUMMARY**

Claimants asserted the following causes of action: unauthorized trading; omission of facts; misrepresentation; breach of fiduciary duty; and, failure to supervise.

Schooley denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state a claim upon which relief can be granted; he is not the proximate cause of any damages allegedly incurred by Claimants; Claimants' claims are barred by the doctrines of waiver, estoppel, ratification, and release.

VTR denied the allegations made in the Statement of Claim and asserted the following

defenses: Claimants failed to state a claim upon which relief can be granted; Claimants' demand for damages is improper as a matter of law and without foundation as a matter of fact; damages alleged by them are speculative; Claimants failed to use due diligence; Claimants were the proximate cause of any losses; adverse actions of a broker cannot be attributed to the firm if the broker acted against the interests of the firm; any losses suffered by Claimants were caused by persons or conditions not under the control of VTR; and, VTR acted in good faith.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages:	\$45,019.00
Costs:	\$ 1,100.00

Schooley requested that Claimants' claims be dismissed with prejudice, and that all costs and expenses, including attorney's fees and litigation expenses be assessed against Claimants.

VTR requested that Claimants' claims be dismissed in their entirety; that, should the Panel find against any of the Respondents, the award be severable; and, that the costs of the hearing not be held against it.

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

1. Respondents Schooley and VTR be and are hereby jointly and severally liable and shall pay Claimants compensatory damages in the amount of \$2,200.00.
2. The parties shall bear their own costs.
3. All other relief requests are hereby denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 120.00

#### 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, VTR Capital, Inc. is a party.

Member surcharge = \$ 800.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,000.00

#### Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 \$400.00 = \$ 400.00

Pre-hearing conference: June 23, 1999 1 session

Two (2) Hearing sessions x \$400.00 = \$ 800.00

Hearing Date: November 15, 1999 2 sessions

Total Forum Fees = \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees against Claimants.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents Schooley and VTR.

### Fee Summary

1. Claimants be and hereby are solely liable for:

Initial Filing Fee = \$ 120.00

Forum Fees = \$ 600.00

Total Fees = \$ 720.00

<u>Less payments</u>	= \$1,100.00
Refund Due Claimants	= \$ 380.00

2. Respondent VTR be and hereby is solely liable for:

<u>Member Fees</u>	= \$2,400.00
Total Fees	= \$2,400.00
<u>Less payments</u>	= \$ 800.00
Balance Due NASD Regulation, Inc.	= \$1,600.00

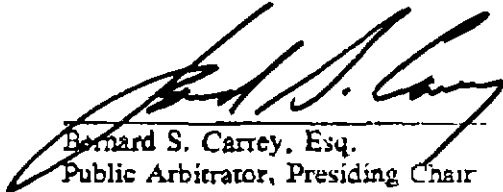
3. Respondents Schooley and VTR be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$ 600.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
Bernard S. Carrey, Esq.  
Public Arbitrator, Presiding Chair

12/20/99  
Signature Date

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Kenneth M. Felder  
Public Arbitrator

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Signature Date

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Herbert Launer  
Industry Arbitrator

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Signature Date


December 28, 1999  
Date of Service (For NASD office use only)

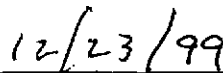
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