

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Kass Schwin, Joan P. Myers, and Rudolph C. Luca and Angelina V. Luca, Joint Tenants in Common, Claimants vs. Elliot Krause Adler, Respondent.

Case Number: 98-00281

Hearing Site: San Francisco, CA

REPRESENTATION OF PARTIES

Claimants, Kass Schwin, Joan P. Myers, and Rudolph C. Luca and Angelina V. Luca, Joint Tenants in Common, (hereinafter collectively referred to as "Claimants"): Jennifer S. Abrams, Esq., Berman, DeValerio, Pease & Tabacco, P.C., 425 California Street, Suite 2025, San Francisco, CA 94104-2205.

Respondent, Elliot Krause Adler, (hereinafter referred to as "Respondent"): *In Pro Per*, c/o Computer Integration Systems, 116 John Street, 10th Floor, New York, NY 10038 and 606 W. Englewood Avenue, Teaneck, NJ 07666.

CASE INFORMATION

Statement of Claim filed on or about: January 23, 1998

Amended Statement of Claim filed on or about: May 6, 1998

Claimant, Kass Schwin, signed the Uniform Submission Agreement: December 30, 1997

Claimant, Joan P. Myers, signed the Uniform Submission Agreement: April 20, 1998

Claimants, Rudolph C. Luca and Angelina V. Luca, as Joint Tenants in Common, signed the Uniform Submission Agreement: April 18, 1998

Respondent did not file a Statement of Answer or sign and submit a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: Fraud, unsuitability and breach of fiduciary duty. The allegations stem from Respondent's alleged improper acts while employed as an account executive handling Claimants' respective brokerage accounts.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages

\$25,000 for Claimant Kass Schwin.

\$100,595 for Claimant Joan P.

Myers.

	\$78,600 for Claimant Rudolph C. Luca and Claimant Angelina V. Luca as Joint Tenant in Common Luca.
Punitive Damages	\$2,000,000
Interest	Unspecified.
Attorneys' Fees	Reasonable amount.
Other Costs	Unspecified.
Other Monetary/Non-Monetary Relief:	As the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file a Statement of Answer or sign and submit a Uniform Submission Agreement. Upon review of the file and documents contained therein, the undersigned Panel determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

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

1. Respondent is liable and shall pay Claimant Kass Schwin \$12,800.
2. Respondent is liable and shall pay Claimant Joan P. Myers \$74,273.94, less \$7,817.08 which is the amount paid to date by Respondent to Claimant Joan P. Myers, for a total owing of \$66,456.85.
3. Respondent is liable for and shall pay Claimant Rudolph C. Luca and Claimant Angelina V. Luca as Joint Tenants in Common \$95,516.50, less \$14,200 which is the amount paid to date by Respondent to Claimant Rudolph C. Luca and Claimant Angelina V. Luca, for a total owing of \$81,316.50.
4. Claimants failed to provide sufficient evidence to sustain their recovery of lost opportunity damages.
5. All other claims are denied in their entirety.

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 = \$250

Adjournment Fees

Adjournments requested during these proceedings:

October 28, 1999-October 29, 1999 by Claimants = \$1000

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 a single arbitrator x \$300	= \$300
Pre-hearing conferences: June 28, 1999 1 session	
One Pre-hearing sessions with Panel x \$1000	= \$1000
Pre-hearing conference(s): April 12, 1999 1 session	
Two (2) Hearing sessions x \$1000	= \$2000
Hearing Dates: January 26, 2000 1 sessions	
June 26, 2000 1 session	
<hr/> Total Forum Fees	<hr/> = \$3300

The Panel has assessed \$1650 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$1650 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimants requested copies of past awards. = \$5.00

Fee Summary

Claimants are hereby jointly and severally liable for:

Initial Filing Fee	= \$ 250
Administrative Costs	= \$ 5
Adjournment Fee	= \$1000
<u>Forum Fees</u>	<u>= \$1650</u>
Total Fees	= \$2905
<u>Less Payments</u>	<u>= \$3755</u>
Refund Due	(= \$850)

Respondent is hereby solely liable for:

<u>Forum Fees</u>	<u>= \$ 1650</u>
Total Fees	= \$ 1650
<u>Less payments</u>	<u>= \$ 0</u>
Balance Due NASD Regulation, Inc.	= \$ 1650

NASD Regulation, Inc. Office of Dispute Resolution
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All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signature(s)


Thomas C. McNally, Esq.
Public Arbitrator, Presiding Chair

7-19-00
Signature Date

Michael J. Fish, Esq.
Public Arbitrator

Signature Date

Barry A. Mainardi
Industry Arbitrator

Signature Date

Date Served:

JUL 24 2000

Date of Service (For NASD office use only)

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