

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Hannah Miller IRA
Hannah, Howard and Arthur Miller

Case No. 98-03897

Names of Respondents

Hamilton-Shea Group, Inc.
Keith Allen Mills
Michael Thomas O'Hara
Michele Mente Taylor
Paul Milton Efron
Foundation Capital Corp.
Joseph J. Salerno, III

REPRESENTATION OF PARTIES

For Hannah Miller IRA ("Miller IRA") and Hannah, Howard and Arthur Miller (the "Millers"), hereinafter collectively referred to as "Claimants": Brian A. Carlis, Esq., Stark & Stark, Lawrenceville, New Jersey.

Respondent Hamilton Shea Group, Inc. ("Hamilton") did not appear.

For Keith Allen Mills ("Mills"): Lloyd R. Schwed, Esq. Kubicki Draper, West Palm Beach, Florida.

Respondent Michael T. O'Hara ("O'Hara") did not appear.

For Michele Mente Taylor ("Taylor"): Delmer C. Gowing, III, Esq., Delmer C. Gowing III, P.A., Delray Beach, Florida.

For Paul Milton Efron ("Efron"): Delmer C. Gowing, III, Esq., Delmer C. Gowing III, P.A., Delray Beach, Florida until his withdrawal on or about October 11, 2000.

Respondent Foundation Capital Corporation ("Foundation") did not appear.

Respondent Joseph J. Salerno, III ("Salerno") did not appear.

CASE INFORMATION

Statement of Claim filed on or about: October 20, 1998.
Amendment to Statement of Claim filed on or about: August 25, 1999.
Claimant Hannah Miller signed the Uniform Submission Agreement on behalf of Hannah Miller IRA: October 9, 1998.
Claimants Hannah Miller and Howard Miller signed the Uniform Submission Agreement: October 9, 1998
Claimant Arthur Miller signed the Uniform Submission Agreement: October 19, 1998.
Statement of Answer filed by Respondent Mills on or about: March 18, 1999.
Respondent Mills signed the Uniform Submission Agreement: March 17, 1999.
Respondent Hamilton did not file a Statement of Answer.
Respondent Hamilton did not file an executed Uniform Submission Agreement.
Respondent O'Hara did not file a Statement of Answer.
Respondent O'Hara did not file an executed Uniform Submission Agreement.
Respondent Taylor did not file a Statement of Answer.
Respondent Taylor did not file an executed Uniform Submission Agreement.
Statement of Answer filed by Respondent Efron on or about: April 29, 1999.
Respondent Efron did not file an executed Uniform Submission Agreement.
Respondent Foundation did not file a Statement of Answer.
Respondent Foundation did not file an executed Uniform Submission Agreement.
Respondent Salerno did not file a Statement of Answer.
Respondent Salerno did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following: The claim involves, among other allegations, unsuitability, over-concentration, unauthorized trading, fraud, failure to supervise and market manipulation. Respondents knowingly, intentionally and purposefully persuaded Claimants to liquidate quality securities holdings in order to purchase a Hamilton Shea "house-stock," Pro-Tech Communications, Inc. ("Pro Tech"). This activity occurred over a period of a few months and was designed as a scheme to assist Respondents in manipulating the market in Pro Tech shares, to the severe financial detriment of Claimants. There was an intentional lack of adequate supervision over Claimants' accounts. At all material times, Respondent Mills was the registered representative of Respondent Hamilton on Claimants' accounts. Respondents O'Hara, Foundation and Taylor were, at all relevant times, control "persons" of Respondent Hamilton and accordingly are liable for their own conduct as well as the conduct of the remaining Respondents. Respondent Efron was, at all relevant times, a principal of Respondent Hamilton who was charged with the supervision of Claimants' accounts. Respondent Salerno was responsible for supervising Respondent Mills.

Unless specifically admitted in his Answer, Respondent Mills denied the allegations made in the Statement of Claim and asserted the following: All of the investments made in Claimants' accounts were expressly authorized, suitable, appropriate and were made after full

and fair disclosure of all material facts. Respondent Mills was under the impression that Claimants had substantial assets outside of the investments made at Respondent Hamilton and that the funds invested at Respondent Hamilton were appropriate for aggressive investments.

Respondent Efron asserted that he was not a supervisor of Respondent Mills and that he has no knowledge of the Claimants.

RELIEF REQUESTED

Claimants requested compensatory damages of \$270,834.50 plus interest, punitive damages, attorney's fees and the costs of the proceeding.

Respondent Mills requested that all claims be dismissed in their entirety.

Respondent Efron requested that he be removed from the claim.

OTHER ISSUES CONSIDERED AND DECIDED

At the evidentiary hearing on October 18, 2000, Claimants informed the arbitration panel that they had dismissed, with prejudice, all claims against Respondent Mills.

Respondents Hamilton, O'Hara, Salerno, Efron and Foundation did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondents Hamilton, O'Hara, Salerno, Efron and Foundation have 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 Respondents present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

Respondents Hamilton, O'Hara, Taylor, Efron, Salerno and Foundation did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The parties present at the evidentiary 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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Hamilton (a now defunct corporation), O'Hara, Taylor and Salerno are liable, jointly and severally, and shall pay to Claimants the sum of \$184,000.00 as compensatory

damages plus interest from October 19, 1998 until October 18, 2000 in the sum of \$20,286.00.

Respondents Hamilton (a now defunct corporation), O'Hara, Taylor and Salerno are liable, jointly and severally, and shall pay to Claimants the sum of \$50,000.00 as punitive damages. Punitive damages are awarded based upon the gross negligence of Respondents Hamilton (a now defunct corporation), O'Hara, Taylor and Salerno.

Respondents Hamilton (a now defunct corporation), O'Hara, Taylor and Salerno are liable, jointly and severally, and shall pay to Claimants reasonable attorneys' fees in such amount as is determined by a court of competent jurisdiction. Attorney's fees are awarded pursuant to Florida Statutes Section 682.01, et. seq.

Claimants' claims against Respondents Efron and Foundation are denied in their entirety.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$200.00
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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 persons at the time of the events giving rise to the dispute. In this matter, Respondent Hamilton was no longer a member of the NASD at the time of the filing of the Statement of Claim.

Adjournment Fees

Adjournments requested during these proceedings:

November 8 through November 11, 1999, adjournment requested by Respondent Mills. The adjournment fee of \$750.00 was waived by the arbitrators.

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:

Two (2) Pre-hearing sessions with Panel	x \$750.00	= \$1,500.00
Pre-hearing conferences:	June 16, 1999	1 session

July 14, 1999

1 session

Two (2) Hearing sessions x \$750.00 = \$1,500.00

Hearing Date: October 18, 2000 2 sessions

Total Forum Fees = \$3,000.00

The Panel has assessed the total forum fees of \$3,000.00 jointly and severally to Respondents Hamilton, O'Hara, Taylor and Salerno.

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.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$200.00
Total Fees	= \$200.00
<u>Less Payments</u>	= <u>\$200.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents Hamilton, O'Hara, Taylor and Salerno be and hereby are jointly and severally liable for:

Forum Fees	= \$3,000.00
Total Fees	= \$3,000.00
<u>Less payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,000.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures

/s/
Syma S. Kasdin
Public Arbitrator, Presiding Chair

November 30, 2000
Signature Date

/s/
Myra Becker, Esq.
Public Arbitrator

November 30, 2000
Signature Date

/s/
Gregory Scott Knight
Industry Arbitrator

November 30, 2000
Signature Date

November 30, 2000
Date of Service (For NASD-DR office use only)

July 14, 1999

1 session

Two (2) Hearing sessions x \$750.00

= \$1,500.00

Hearing Date:

October 18, 2000

2 sessions

Total Forum Fees

= \$3,000.00

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Initial Filing Fee

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Total Fees

= \$200.00

Less Payments

= \$200.00

Balance Due NASD Dispute Resolution, Inc.

= \$ 0.00

Respondents Hamilton, O'Hara, Taylor and Salerno be and hereby are jointly and severally liable for:

Forum Fees

= \$3,000.00

Total Fees

= \$3,000.00

Less payments

= \$ 0.00

Balance Due NASD Dispute Resolution, Inc.

= \$3,000.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures



Sybil S. Kasdin

Public Arbitrator, Presiding Chair

11/30/00
Signature Date

Myra Becker

Myra Becker, Esq.
Public Arbitrator

11/29/00

Signature Date

Gregory Scott Knight
Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

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Myra Becker, Esq.
Public Arbitrator

Signature Date

Gregory Scott Knight
Gregory Scott Knight
Industry Arbitrator

Date of Service (For NASD-DR office use only)