

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Jane Leonard, as Trustee of the
Christopher J. Leonard Revocable Trust, and
Christopher J. Leonard, individually, and as
sole beneficiary of the Christopher J.
Leonard Revocable Trust

Case No. 99-00083

Names of Respondents

J. C. Bradford & Co.
Michael Anderson Williams

REPRESENTATION OF PARTIES

For Christopher J. Leonard, individually and as sole beneficiary of the Christopher J. Leonard Revocable Trust and Jane Leonard, as Trustee of the Christopher J. Leonard Revocable Trust, hereinafter referred to as "Claimants": Jennifer G. Altman, Esq. of Zack Kosnitzky, P.A., Miami, Florida.

For J.C. Bradford & Co., L.L.C. ("Bradford") and Michael Anderson Williams ("Williams"), hereinafter referred to as "Respondents": James G. Ramsey, Esq., Associate General Counsel, J.C. Bradford & Co., L.L.C., Nashville, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: January 7, 1999.

Claimant signed the Uniform Submission Agreement on: January 7, 1999.

Amended Statement of Claim filed on or about: February 17, 1999.

Joint Answer to the Amended Statement of Claim of Respondents filed on or about: May 13, 1999.

Respondent Bradford's Uniform Submission Agreement signed on: May 13, 1999 by James G. Ramsey on behalf of the firm.

Respondent Williams signed the Uniform Submission Agreement on: May 17, 1999.

CASE SUMMARY

Claimants alleged the following: Claimant, Christopher J. Leonard, was involved in a near fatal accident and Claimant's father, David Leonard, ("the Trustee"), created the Christopher J. Leonard Revocable Trust, to provide for Claimant's care and maintenance throughout his life. The Trust initially was conservatively managed by PaineWebber, Inc. in 1996, Respondent Williams convinced the Trustee to deposit approximately \$450,000.00, the corpus of the Trust, at Bradford for Respondent Williams to manage. The New Customer Account Agreement identifies Claimant, Christopher J. Leonard, as a student with an annual income of under \$25,000.00, and expressly designated that there should be no margin transactions on the account. The Trustee advised Williams that the assets of the Trust were to be used for Claimant Christopher J. Leonard's care and maintenance throughout his life. Respondents churned Claimant's account; charged the Trust commissions of approximately \$75,000.00 in only one year; placed Claimant in unsuitable, highly speculative investments, most of which were solicited; convinced the Trustee to alter the account goals to permit margin trading; and, otherwise grossly mishandled the account. In addition, hundreds of thousands of dollars were secreted from the account, without notifying Claimants or taking other appropriate action. Respondents knew or should have known of the mismanagement of the account and of the improper disbursements from the Trust. Respondents had a duty to properly supervise the account and ensure that Claimant, Christopher J. Leonard was protected.

Unless specifically admitted in their Answer, Respondents Bradford and Williams denied the allegations of wrongdoing contained in the Statement of Claim and asserted the following: David Leonard was the Trustee of Claimant's Trust with the sole authority to handle the funds and investments for the trust. In July 1996, the Trustee opened an account with Respondent Bradford through Respondent Williams and transferred approximately

\$450,000.00 in securities into the account. The Trustee transferred the account to another firm in January 1998, at which time the account had a value of approximately \$108,000.00. At that time, the net investment losses resulting from investment transactions executed at Bradford was approximately \$5,800.00. During the life of the account at Bradford, Trustee also had written various checks based on his check writing privileges for the account in a total amount of approximately \$350,000.00. The Trustee was a knowledgeable and intelligent investor who at all times controlled the account and was responsible for the execution of all transactions in the account. The Trustee followed his stocks closely, investigated them independently, did not accept any recommendations made by Respondent Williams, and, had full knowledge of all material facts concerning the investments he made, including the nature of the investments and associated risks. Based on the investment objectives stated by the Trustee, the recommendations made to him were suitable and there was no excessive trading. The Respondents also received appropriate and proper documentation from the Trustee implying that the use of margin borrowing and the trading of options were authorized by the terms of the Trust. Respondents did not make any misrepresentations or omissions of material facts with respect to investments or transactions made in the account and neither the Claimants nor the Trustee justifiably relied on any alleged misstatements or omissions made by Respondents. To the extent any losses in the value of the Trust's investments occurred, Respondents are not liable because they were the results of the Trustee's own decisions on how the account should be invested and the losses were within the risks assumed by the Trust and its Trustee based on the investment objectives selected by the Trustee.

RELIEF REQUESTED

Claimants requested compensatory damages; pre-judgment interest at Florida's statutory interest rate per annum; punitive damages in an amount sufficient to punish a corporation with the net worth of Respondent Bradford; punitive damages in an amount sufficient to punish an individual with the net worth of Respondent Williams, reasonable attorneys' fees; accountants' and experts' fees and other disbursements as permitted by applicable law; costs; damages available under Florida Statutes, Sections 517.211 and 517.241; damages available under the Virginia Securities Act, Sections 13.1-522, et.al; and, such other relief as the Panel may deem appropriate.

Respondents Bradford and Williams requested that the Statement of Claim be dismissed their costs and attorneys' fees.

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.

The panel wished to explain the basis of the Award

The panel addressed the factual and legal issues raised in the Statement of Claim in two parts. The first, David Leonard's alleged misuse of Claimant's Trust funds and the second, the Respondents' responsibility for the propriety of the Trusts securities investments in the J.C. Bradford account.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- A. With respect to the first issue regarding David Leonard's use of the Trust funds, the panel unanimously finds no liability as to either Respondent for the following reasons:
 - 1. This claim has no basis under either the federal or state securities laws.
 - 2. The Respondents had no affirmative duty to monitor or limit David Leonard's use of the Trust Funds.
 - 3. Claimants failed to satisfy their burden of demonstrating that the Trust Funds had been improperly diverted, misappropriated or wasted by David Leonard to the disadvantage of the Christopher Leonard Trust.
 - 4. The Respondents are entitled to the defense provided by Florida Statute 737.405 in that there was no evidence that the Respondents had actual knowledge of David Leonard's alleged wrongful conduct.
- B. With respect to the second issue regarding investment transactions conducted in the account, the panel unanimously finds liability for the following reasons:

1. The Trust and not the beneficiary was the customer.
2. The Respondents had actual knowledge of the investment and financial objectives of the Trust.
3. The transactions effectuated in the account were not suitable in that they did not satisfy the stated purposes of the Trust in light of the information that was available and known to the Respondents.
4. Had the Trust assets been invested in a manner consistent with the purposes and investment objectives of the Trust which was consistent with the original recommendation of the Respondents (without taking into consideration cash balances in the account) the account value would have increased by \$172,406 as of December 31, 1997, inclusive of margin interest and commissions.
5. The Claimant's are entitled to prejudgment interest at the rate of 10% per annum or \$50,285.00 bringing the total amount of losses sustained to \$222,691.00 as of November 30, 2000.
6. The damages are based upon Counts 2, 3, 4, 5 and 7 of the Claimant's Second Amended Statement of Claim.
7. The panel further finds that the Claimants are entitled to an award of attorneys' fees, pursuant to Florida Statute Section 517.211, in an amount to be determined by a court of competent jurisdiction with the following proviso: that such award shall be predicated solely upon time reasonably allocable to the portion of the case relating to the monetary award herein. Claimants shall not be entitled to or given credit for time and costs expended with respect to that portion of the case relating to David Leonard's alleged misappropriation or diversion of checks or funds of approximately \$350,000.00 from Claimants' account.
8. The panel further finds that the Respondents shall be jointly and severally assessed the following costs of litigation:
 - (a) Expert fees: \$20,000.00 (collectively)
 - (b) Filing fees: \$ 1,250.00
 - (c) Service fees: \$ 80.00

Total costs: \$21,330.00

9. The panel further finds that the Respondents shall be jointly and severally liable for all amounts set forth above in paragraphs five (5) and eight (8).
10. The panel further finds that the forum fees incurred in this action (exclusive of the filing fee) shall be divided equally between the Claimants and Respondents.
11. All other claims, including those for punitive damages, are hereby 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	= \$250.00
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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 person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,000.00

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 arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$300.00	= \$ 300.00
Pre-hearing conference date: January 6, 2000	1 session

One (1) Pre-hearing session with the Panel x \$1,000.00	= \$ 1,000.00
Pre-hearing conference date: September 22, 1999	1 session

Eighteen (18) Hearing sessions x \$1,000.00 = \$18,000.00

Hearing Dates:	April 4, 2000	2 sessions
	April 5, 2000	2 sessions
	April 6, 2000	2 sessions
	August 1, 2000	2 sessions
	August 2, 2000	2 sessions
	August 3, 2000	2 sessions
	September 11, 2000	2 sessions
	September 12, 2000	3 sessions
	September 13, 2000	1 session

Total Forum Fees = \$19,300.00

The Panel has assessed \$9,650.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$9,650.00 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimants, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 9,650.00
Total Fees	= \$ 9,900.00
Less payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,700.00

Respondent Bradford be and hereby is solely liable for:

Member Fees	= \$ 3,800.00
Total Fees	= \$ 3,800.00
Less payments	= \$ 3,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents Bradford and Williams, be and hereby are jointly and severally liable for:

Forum Fees	= \$9,650.00
Less payments	= 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$9,650.00

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

Concurring Arbitrators' Signatures

_____/s/_____
Allan Lerner, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Joseph L. Bernstein, Esq.
Public Arbitrator

Signature Date

_____/s/_____
R. Peter Olin
Industry Arbitrator

Signature Date

December 8, 2000
Date of Service (For NASD-DR office use only)

Respondent Bradford be and hereby is solely liable for:

Member Fees	= \$ 3,800.00
Total Fees	= \$ 3,800.00
Less payments	= \$ 3,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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Concurring Arbitrators' Signatures



Allan Lerner, Esq.
Public Arbitrator, Presiding Chair

Dec. 6, 2000

Signature Date

Joseph L. Bernstein, Esq.
Public Arbitrator

Signature Date

R. Peter Olin
Industry Arbitrator

Signature Date

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

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Concurring Arbitrators' Signatures

Allan Lerner, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph L. Bernstein, Esq.
Public Arbitrator

Signature Date



R. Peter Olin
Industry Arbitrator

12/7/00

Signature Date

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

