

AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Franklin Bachman

and

99-00255

Name of Respondent

Piper Jaffray, Inc. n/k/a US Bancorp Piper Jaffray, Inc.

REPRESENTATION OF PARTIES

Franklin Bachman ("**Claimant**") appeared *pro se*.

Piper Jaffray, Inc. n/k/a US Bancorp Piper Jaffray, Inc. ("**Respondent**") was represented by Mark S. Reed, Esq., US Bancorp Piper Jaffray, Inc., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about January 20, 1999. Response to Motion to Dismiss was filed on or about May 13, 1999. Submission Agreement of Claimant Franklin Bachman was signed on January 12, 1999.

Motion to Dismiss was filed by Respondent Piper Jaffray, Inc. n/k/a US Bancorp Piper Jaffray, Inc. on or about April 29, 1999. Letter in Support of Motion to Dismiss was filed on or about June 23, 1999.

HEARING INFORMATION

A telephonic pre-hearing conference was held on July 15, 1999 for one (1) session, with a majority of the arbitrators present.

The telephonic hearing on Respondent's Motion to Dismiss was held on August 19, 1999 for one (1) session for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that in 1984 he was induced to purchase units of four limited partnerships. It was specifically alleged that Ed Kohler, then Vice President of the Limited Partnership Department, assured Claimant that the Limited Partnership Department would be his one source to contact for information on the partnerships he purchased. Claimant further alleged that Mr. Kohler assured him that he would not need to contact any of the limited partnerships. It was alleged that Claimant relied on these representations and purchased units of four limited partnerships in 1984 and 1985.

Respondent in its Motion to Dismiss stated that the claims were not eligible for determination pursuant to Rule 10304 of the NASD Code of Arbitration Procedure (the "Code").

RELIEF REQUESTED

Claimant requested an award in the amount of \$279,230.00.

Respondent requested that the claims asserted against it be dismissed with prejudice pursuant to Rule 10304 of the Code; an award of its reasonable attorneys' fees, costs and expenses; and such further relief as may be appropriate.

OTHER ISSUES CONSIDERED & DECIDED

Respondent US Bancorp Piper Jaffray, Inc. did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having filed its Motion to Dismiss, appeared and presented oral argument on its Motion to Dismiss is bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the arguments presented at the hearing on Respondent's Motion to Dismiss, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter are dismissed with out prejudice as being ineligible pursuant to Rule 10304 of the Code. Pursuant to Rule 10305 of the Code, the matter is

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dismissed without prejudice to any claims or defenses available to any party and the parties are referred to their judicial remedies.

2. Other than Forum Fees addressed below, all other requests for relief shall be and hereby are denied in their entirety.

FORUM FEES

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each pre-hearing conference, if any. There were two (2) sessions x \$750.00 = \$1,500.00 in forum fees. Pursuant to Rule 10332(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain as forum fees the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant Franklin Bachman. Respondent US Bancorp Piper Jaffray, Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$750.00 as the balance due for forum fees.

OTHER FEES

Pursuant to Rule 10333 of the Code, Respondent US Bancorp Piper Jaffray, Inc. has paid to the NASD the member surcharge in the amount of \$1,500.00 previously invoiced. Pursuant to Rule 10333 of the Code, Respondent US Bancorp Piper Jaffray, Inc. has paid to the NASD the process fees in the total amount of \$600.00 previously invoiced.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.



Peter W. Anson, Esq.
Public Arbitrator, Presiding Chair

Dated:

AUG. 25, 1999

James A. Lundberg, Esq.
Public Arbitrator

Loyall E. Wilson
Industry Arbitrator

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Peter W. Anson, Esq.
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James A. Lundberg, Esq.
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9/24/99

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Peter W. Anson, Esq.
Public Arbitrator, Presiding Chair

James A. Lundberg, Esq.
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8-23-99