

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

---

In the Matter of the Arbitration Between

Name of Claimant

Estelle M. Zack

Case No. 99-00425

Names of Respondents

Thomas K. Wasserman  
Thos. K. Wasserman & Associates, Inc.  
Richard T. Salter  
John B. Salter

---

**REPRESENTATION OF PARTIES**

For Claimant Estelle M. Zack hereinafter referred to as "Claimant": Kalju Nekvasil, Esq. of Goodman & Nekvasil, P.A., Clearwater, Florida.

For Respondents Thomas K. Wasserman ("T. Wasserman"), Thos. K. Wasserman & Associates, Inc. ("TKW & Assoc."), Richard T. Salter ("R.T. Salter") and John B. Salter ("J.B. Salter"): Delmer C. Gowing, III, Esq. of Delmer C. Gowing III, P.A., Delray Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on: January 28, 1999.

Claimant signed the Uniform Submission Agreement on: November 27, 1998.

Joint Response to Statement of Claim and Motion to Dismiss of Respondents T. Wasserman, TKW & Assoc., R.T. Salter and J.B. Salter filed: March 18, 1999.

Respondents T. Wasserman, TKW & Assoc., R.T. Salter and J.B. Salter signed Uniform Submission Agreements on: March 1, 1999.

Claimant's Response in Opposition to Respondents' Motion to Dismiss filed: April 19, 1999.

**CASE SUMMARY**

Claimant alleged that she is a very elderly, trusting and unsophisticated investor and that in total disregard of her investment objectives, financial situation and needs, Respondents

recommended that she invest her life savings, virtually all of her liquid net worth, in high-risk, illiquid, long-term promissory notes (Keller Promissory Notes). Claimant further alleged that not only were the individual recommendations unsuitable, but that the resultant concentration of Claimant's account in those promissory notes was inappropriate. Claimant next alleged that Respondents falsely represented to her that the promissory notes were safe investments; that Respondents failed to review the material terms and risk factors of the investments with Claimant; that Claimant trusted Respondents and believed their inaccurate representations that the investments at issue were safe and appropriate for her given her investment objectives, financial situation and needs; and, that Respondents failed to disclose to Claimant that the illiquid, high-risk investments generated far greater commissions than conservative investments that would have been consistent with Claimant's financial situation and investment objectives and needs.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that each Respondent complies with their individual and corporate requirement of due diligence by taking reasonable steps toward determining the efficiency of an investment prior to offering it to their clients; that the registered representative, J. Salter, met with Claimant and her husband and after determining their net worth, advised them that they were purchasing too much of the Keller Promissory Notes and by so doing they were increasing their risk; and, that despite the warnings, Claimant insisted upon investing in Keller Promissory Notes and the losses therefore, are not attributable to any wrongdoing on the part of the Respondents.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$52,000.00, statutory damages, punitive damages, pre-judgment interest, attorneys' fees (the entitlement and amount of which should be determined by a court of competent jurisdiction) and costs.

Respondents requested an award dismissing the claim and requested that costs be borne equally among Claimant and Respondents.

#### **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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents T. Wasserman, TKW & Assoc. and R.T. Salter are found liable, jointly and severally, and shall pay to Claimant compensatory damages in the amount of \$38,787.71 plus interest at the rate of 10% per annum from November 22, 1999 to the date of payment of the award.
2. Respondent J.B. Salter is found liable and shall pay to Claimant compensatory damages in the amount of \$1,385.61.
3. Respondents T. Wasserman, TKW & Assoc. and R.T. Salter are found liable, jointly and severally, and shall pay to Claimant costs in the amount of \$9,000.00.
4. The arbitration panel specifically finds that Respondents T. Wasserman, TKW & Assoc. and R.T. Salter violated the Florida Securities and Investor Protection Act in connection with the sale of the Keller Promissory Notes to Claimant as alleged in the Statement of Claim.
5. The issue of attorneys' fees in this matter shall be determined by a court of competent jurisdiction.
6. Claimant's requests for statutory damages and punitive damages are hereby denied.
7. Any other claims not specifically addressed herein are 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	= \$150.00
--------------------------	------------

##### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

##### **Adjournment Fees**

Adjournments requested during these proceedings: None

### **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 \$500.00	= \$1,000.00
Pre-hearing Conference Dates: 6/21/99	1 session
7/23/99	1 session

One (1) Pre-hearing session with the Chairperson x \$300.00	= \$ 300.00
Pre-hearing Conference Date: 8/13/99	1 session

Six (6) Hearing sessions x \$500.00	= \$3,000.00
Hearing Dates: 9/13/99	2 sessions
11/22/99	2 sessions
11/23/99	2 sessions

Total Forum Fees	= \$4,300.00
------------------	--------------

The Panel has assessed, jointly and severally, the total forum fees of \$4,300.00 to Respondents T. Wasserman, TKW & Assoc. and R.T. Salter.

### **Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$150.00
Total Fees	= \$150.00
<u>Less payments</u>	<u>= \$150.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondent TKW & Assoc. be and hereby is solely liable for:

Member Fees	= \$3,100.00
Total Fees	= \$3,100.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondents T. Wasserman, TKW & Assoc. and R.T. Salter be and hereby are jointly and severally liable for:

Forum Fees	= \$4,300.00
Balance Due NASD Regulation, Inc.	= \$4,300.00

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

**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_/s/\_\_\_\_\_  
Herb Jacobs  
Public Arbitrator, Presiding Chair

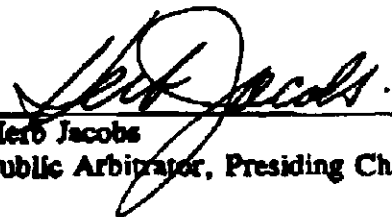
\_\_\_\_\_/s/\_\_\_\_\_  
Donald P. Chiras, Ph.D  
Industry Arbitrator

\_\_\_\_\_/s/\_\_\_\_\_  
Will Murphy, Esq.  
Public Arbitrator

December 20, 1999  
Date of Service (For NASD office use only)

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

Concurring Arbitrators' Signature(s)

  
Herb Jacobs  
Public Arbitrator, Presiding Chair

15 December 99  
Signature Date

\_\_\_\_\_  
Donald P. Chiras, Ph.D  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Will Murphy, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

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

Concurring Arbitrators' Signature(s)

\_\_\_\_\_  
Herb Jacobs  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
*Donald P. Chiras*  
Donald P. Chiras, Ph.D  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Will Murphy, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

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

Concurring Arbitrators' Signature(s)

---

Herb Jacobs  
Public Arbitrator, Presiding Chair

---

Signature Date


---

Donald P. Chiras, Ph.D  
Industry Arbitrator

---

Signature Date

---

  
Will Murphy, Esq.  
Public Arbitrator

---

15 DECEMBER 1999  
Signature Date

---

Date of Service (For NASD office use only)