

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Mark Podschelne and Alma Schroeder

Case No. 99-00548

Names of Respondents

Timothy G. Moyer
Michael McDonald
Richard C. Bowersock
Southern Financial Group, Inc.

REPRESENTATION OF PARTIES

For Claimants Mark Podschelne ("Podschelne") and Alma Schroeder ("Schroeder"), hereinafter collectively referred to as "Claimants": Neal J. Blaher, Esq. of the Law Office of Neal J. Blaher, Orlando, Florida until his withdrawal as counsel on or about February 24, 2000. Thereafter, Claimants were represented by Claimant Podschelne.

For Respondents Timothy G. Moyer ("Moyer"), Michael McDonald ("McDonald"), Richard C. Bowersock ("Bowersock"), and Southern Financial Group, Inc. ("Southern"), hereinafter collectively referred to as "Respondents": Russell L. Forkey, P.A., Ft. Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 3, 1999.

Claimants signed the Uniform Submission Agreement: March 1, 1999.

Answer and Affirmative Defenses filed by Respondents on or about: June 3, 1999.

Respondent Moyer signed the Uniform Submission Agreement: May 28, 1999.

Respondent McDonald signed the Uniform Submission Agreement: May 28, 1999.

Respondent Bowersock signed the Uniform Submission Agreement: May 13, 1999.

Respondent Southern signed the Uniform Submission Agreement: April 21, 1999.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading, failure and refusal to execute orders placed by Claimant Podschelne with the specific aim of mitigating the losses of the unauthorized trading; failure and refusal to allow Claimant Podschelne to transfer his portfolio out of the account so as to find a broker who would comply with the

customer's instructions; breach of fiduciary duty; violation of firm policies and state and federal securities laws and regulations, including the Florida Securities and Investor Protection Act; and, failure to supervise. The causes of action relate to Respondents' failure to sell Claimants' shares of stock in Dura Pharmaceuticals, Inc. and their execution of unauthorized trades of additional securities.

Respondents denied the allegations made in the Statement of Claim and raised various affirmative defenses, including Claimants specifically authorized, approved and directed all of the complained of activity; Claimants ratified each transaction in their account; at all times relevant herein, Respondents acted properly and in good faith with regard to Claimants' account; and, the Statement of Claim fails to state a claim upon which relief can be granted.

RELIEF REQUESTED

Claimants requested compensatory damages of between \$20,000.00 and \$25,000.00; disgorgement of all compensation received by Respondents from the transactions at issue; selective rescission of all of the unprofitable unauthorized trades in the account; pre-judgment interest; costs and fees of this action, including those of expert witnesses; reasonable attorneys' fees pursuant to Section 517.211(6) Fla. Stat., to be awarded by a court of competent jurisdiction following a finding by the arbitrators of violations of the Florida Securities and Investor Protection Act; punitive damages in the sound discretion of the arbitrators; and, such other relief as the arbitrators deemed appropriate under the circumstances.

Respondents requested a dismissal, with prejudice, of all claims asserted against them; an award of their costs and attorneys' fees in the approximate sum of \$6,000.00; and, an expungement of all references to this arbitration from Respondents' Central Registration Depository ("CRD") records maintained by the NASD.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants did not attend the evidentiary hearings in this matter. Upon review of the file and the representations made by/on behalf of the Respondents, the undersigned arbitrators (the "Panel") determined that Claimants received due notice of the hearings, and that arbitration of the matter would proceed without said Claimants present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

At the commencement of the hearings scheduled for October 17 through October 19, 2000, Respondents made a motion to dismiss all claims, with prejudice, as a result of Claimants' failure to appear and prosecute their claims at the evidentiary hearings in this matter scheduled to commence on April 4, 2000, and the rescheduled hearings to commence on October 17, 2000. In addition, Respondents requested an expungement of all references to this arbitration from Respondents' CRD records maintained by the NASD plus an award of all of their costs incurred in defending this matter, including the costs incurred by Respondents in travelling to the evidentiary hearings and their attorneys' fees. The

arbitration panel granted Respondents' motion to dismiss, with prejudice, and Respondents' request for an expungement of all references to this arbitration from their CRD records. The arbitration panel denied Respondents' request for an award of their costs and attorneys' fees.

The parties present at the 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 motions made by Respondents at the hearing on October 17, 2000, and the record of these proceedings, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All claims by Claimants against all Respondents are dismissed, with prejudice.

The panel recommends the expungement of all references to the above-captioned arbitration from Respondents Southern, Moyer, McDonald and Bowersock's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Southern, Moyer, McDonald and Bowersock must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directives.

Respondents' requests for costs and attorneys' fees are denied.

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	= \$120.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

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

Adjournment Fees

Adjournments requested during these proceedings:

April 4, 5 and 6, 2000 hearing dates, adjournment by Claimants = \$400.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing session with a single arbitrator x \$300.00 = \$300.00
Pre-hearing conference: January 13, 2000 1 session

One Pre-hearing session with Panel x \$400.00 = \$400.00
Pre-hearing conference: November 23, 1999 1 session

Two Hearing sessions x \$400.00 = \$800.00
Hearing Dates: April 4, 2000 1 session
October 17, 2000 1 session

Total Forum Fees = \$1,500.00

The Panel has assessed the total forum fees of \$1,500.00 to Claimants, jointly and severally.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$120.00
Adjournment Fee	= \$400.00
Forum Fees	= \$1,500.00
Total Fees	= \$2,020.00
<u>Less payments</u>	<u>= \$520.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,500.00

Respondent Southern be and hereby is solely liable for:

Member Fees	= \$2,200.00
Total Fees	= \$2,200.00
<u>Less payments</u>	<u>= \$2,200.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
Floyd A. Hillstrom, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Robert L. Hudson
Public Arbitrator

Signature Date

_____/s/_____
Bernard A. Breton
Industry Arbitrator


Signature Date

October 24, 2000

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

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures


Floyd A. Hillstrom, Esq.
Public Arbitrator, Presiding Chair

10/18/00
Signature Date

Robert L. Hudson
Public Arbitrator

Signature Date

Bernard A. Breton
Industry Arbitrator

Signature Date

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

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Floyd A. Hillstrom, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Robert L. Hudson
Robert L. Hudson
Public Arbitrator

10/17/00
Signature Date

Bernard A. Breton
Industry Arbitrator

Signature Date

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

All balances are due and payable to NASD Dispute Resolution, Inc.


Concurring Arbitrators' Signatures

Floyd A. Hillstrom, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Robert L. Hudson
Public Arbitrator

Signature Date



Bernard A. Breton
Industry Arbitrator

10-23-00
Signature Date

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