

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

The Fox Family Trust, Claimant v. Everen Securities and Dorothy Peisner, Respondents.

Case Number: 99-00735

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Jonathan W. Evans, Esq.
Law Offices of Jonathan W. Evans & Associates
Los Angeles, California

For Respondents:

Jon L. Rewinski, Esq.
Heller, Ehrman, White, & McAuliffe
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 11, 1999

Claimant, The Fox Family Trust, Trustee Arnold Fox's Uniform Submission Agreement signed:
February 10, 1999

Claimant, The Fox Family Trust, Trustee Peggy Fox's, Uniform Submission Agreement signed:
February 10, 1999

Joint Statement of Answer filed by Respondents Everen Securities and Dorothy Peisner: May 6,
1999

Respondent, Everen Securities', Uniform Submission Agreement signed: May 5, 1999

CASE SUMMARY

Claimant alleged negligence, misrepresentation, suitability, breach of fiduciary duty, failure to supervise, and violation of NASD rules and regulations.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages of \$30,115.79, a reasonable rate of return on the sums invested, 10% interest from June 1998, fees, and costs.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Dorothy Peisner 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 the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the 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.

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:

- 1) Claimant's claims against Respondent Everen Securities are denied in their entirety.
- 2) Claimant's claims against Respondent Dorothy Peisner are denied in their entirety.
- 3) Each party shall bear its own costs of arbitration, including attorney's fees.
- 4) All claims requested and not granted are expressly denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$120.00
--------------------------	------------

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm Everen Securities is a party the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 1,000.00</u>
Total Member fees	= \$ 2,400.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel.

The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$ 400.00 / Session	= \$ 800.00
Pre-hearing conferences: September 9, 1999 1 Session	
November 18, 1999 1 Session	
(4) Hearing sessions @ \$ 400.00 / Session	= \$ 1,600.00
Hearings: March 13, 2000 2 Sessions	
March 14, 2000 2 Sessions	
Total Forum Fees	= \$ 2,400.00

1. The Arbitration Panel has assessed \$ 2,400.00 of the forum fees to Everen Securities.

Fee Summary

1. Claimant, The Fox Family Trust, is charged with the following fees and costs:

<u>Initial Filing Fee</u>	= \$ 400.00
<u>Total Fees</u>	= \$ 120.00
<u>Less payments</u>	= \$ (520.00)
<u>Refund Due Claimant</u>	= \$ (400.00)

2. Respondent, Everen Securities, is charged with the following fees and costs:

<u>Member Fees</u>	= \$ 2,400.00
<u>Forum Fees</u>	= \$ 2,400.00
<u>Total Fees</u>	= \$ 4,800.00
<u>Less payments</u>	= \$ (4,600.00)
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 200.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-00733
Award Page 5 of 5

Concurring Arbitrators' Signatures

Robert A. Lombardi

Robert A. Lombardi
Chair, Public Arbitrator

3/21/00

Signature Date

Barbara L. Olsen, Esq.
Public Arbitrator

Signature Date

Alexandra M. Linden
Non-Public Arbitrator

Signature Date

Date of Service

Concurring Arbitrators' Signatures

Robert A. Lombardi
Chair, Public Arbitrator

Signature Date



Barbara L. Olsen, Esq.
Public Arbitrator

3-20-00

Signature Date

Alexandra M. Linden
Non-Public Arbitrator

Signature Date

Date of Service

Concurring Arbitrators' Signatures

Robert A. Lombardi
Chair, Public Arbitrator

Signature Date

Barbara L. Olsen, Esq.
Public Arbitrator

Signature Date



Alexandra M. Linden
Non-Public Arbitrator

3-20-2000
Signature Date

Date of Service