

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Carol Worth

Case No. 99-01284

Names of Respondents

The Equitable Life Assurance Society of
the United States
Equico Securities, Inc. n/k/a EQ Financial
Consultants, Inc.

REPRESENTATION OF PARTIES

For Claimant: William S. Isenberg, Esq. of Latona & Isenberg, Ft. Lauderdale, FL.

For Respondents: Richard J. DeMarco, Esq. of The Equitable Life Assurance Society of
the United States, New York, NY.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: March 10, 1999.

Joint Statement of Answer filed by Respondents on or about: June 15, 1999.

Respondents signed the Uniform Submission Agreement: June 14, 1999.

CASE SUMMARY

Claimant alleged the following: Claimant was induced by Bernice Kipfer ("Kipfer"), her sister, a registered representative for Respondents, to invest \$100,000.00 in what turned out to be an investment scam. Claimant subsequently invested an additional \$70,000.00. Although Respondents had written procedures to supervise registered representatives and protect customers, they failed to enforce these procedures or to enforce the procedures of the NASD or NYSE.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and alleged the following: Claimant alleges that Respondents should be held responsible for Kipfer's recommendation to purchase the investment at issue in this case. However, Kipfer did not have any express or apparent authority to act on Respondents' behalf with respect to the investment at issue. Kipfer's conduct did not occur

substantially within the time and space limits of her agency, and she sought to accomplish her own purpose, not serve the interests of Respondents. Claimant's negligent supervision claim is further defective because Claimant suffered only economic harm, Respondents had reasonable compliance measures in place, and Claimant cannot establish that Respondents failed to supervise Kipfer or that Respondents' conduct was the proximate cause of Claimant's loss.

RELIEF REQUESTED

Claimant requested compensatory damages of \$170,000.00, punitive damages, interest, costs, attorneys' fees (less a credit of \$15,100.00), and all other relief the panel deemed appropriate.

Respondents requested that the Statement of Claim be dismissed, attorneys' fees, costs and expenses, and such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 14, 2000, Respondents filed a motion to dismiss. Claimant filed a response on or about February 4, 2000. Respondents filed their reply memorandum of law in further support of their motion to dismiss on February 4, 2000. On February 11, 2000, the Panel granted the motion to dismiss.

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, Respondents' motion to dismiss, and Claimant's response thereto, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Statement of Claim is dismissed in its entirety.

Any and all relief not specifically addressed herein is 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 = \$ 200.00

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 firms are The Equitable Life Assurance Society of the United States and Equico Securities, Inc.

Member surcharge	= \$1500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2500.00

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 (1) Pre-hearing session with Panel x \$750.00	= \$ 750.00
Pre-hearing conference: October 22, 1999 1 session	

Total Forum Fees	= \$ 750.00
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The Panel has assessed \$750.00 of the forum fees to Claimant.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 200.00
<u>Forum Fees</u>	= \$ 750.00
Total Fees	= \$ 950.00
<u>Less payments</u>	= \$ 200.00
Balance Due NASD Regulation, Inc.	= \$ 750.00

Respondent The Equitable Life Assurance Society of the United States be and hereby is solely liable for:

<u>Member Fees</u>	= \$4600.00
Total Fees	= \$4600.00
<u>Less payments</u>	= \$4600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondent Equico Securities, Inc. be and hereby is solely liable for:

<u>Member Fees</u>	= \$4600.00
Total Fees	= \$4600.00
<u>Less payments</u>	= \$4600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

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

Concurring Arbitrators' Signatures

/s/

Gary D. Lipson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Mitchell A. Yelen, Esq.
Public Arbitrator

Signature Date

/s/


Michael Z. Brennan
Industry Arbitrator

Signature Date

June 1, 2000

Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures



Gary D. Lipson, Esq.
Public Arbitrator, Presiding Chair

5/30/00
Signature Date

Mitchell A. Yelen, Esq.
Public Arbitrator

Signature Date

Michael Z. Brennan
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

Gary D. Lipson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Mitchell A. Yelen
Mitchell A. Yelen, Esq.
Public Arbitrator

06/01/00
Signature Date

Michael Z. Brennan
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

Gary D. Lipson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Mitchell A. Yelen, Esq.
Public Arbitrator

Signature Date


Michael Z. Brennan
Industry Arbitrator


Signature Date

Date of Service (For NASD office use only)