

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

The Estate of Loni Wilker

Case No. 99-01828

Name of Respondents

Joseph A. Schifano
Daniel F. McCorry
Money Talks, Inc.
Schifano-McCorry Associates

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimant, the Estate of Loni Wilker ("Claimant"): Harry Jay Levin, Esq. and Colleen Flynn Cyphers, Esq. of the law firm of Levin & Cyphers, Toms River, NJ.

Respondent, Royal Alliance Associates ("Royal Alliance"): Michael Schwartzberg, Esq. of the law firm of Winget, Spadafora & Schwartzberg, LLP, New York, NY.

Respondents Schifano-McCorry Associates ("SMA") Joseph Schifano ("Schifano") and Daniel F. McCorry ("McCorry") were represented by William H. Trousdale, Esq. of the law firm of Tompkins, McGuire, Wachenfeld & Barry, Newark, NJ.

Money Talks, Inc. ("Money Talk") was represented by Daniel F. McCorry.

CASE INFORMATION

Statement of Claim filed on or about: April 15, 1999

Claimant's Uniform Submission Agreement was signed by Barbara Lathrop, Executrix of the Estate of Loni Wilker on: March 24, 1999

Statement of Answer filed by Respondents Schifano and McCorry on or about:
September 28, 1999

Schifano signed the Uniform Submission Agreement: September 23, 1999

McCorry signed the Uniform Submission Agreement: September 23, 1999

Statement of Answer filed by Royal Alliance on or about: March 8, 2000

SMA and Money Talk neither filed Answers nor did they file Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; fraud; omissions of material information, and negligent supervision. The causes of action relate to investments in mutual funds, annuities and limited partnerships. Claimant alleged that investments were not made for the benefit of Claimant but rather to allow the Respondents to receive high commissions.

Unless specifically admitted in its Answer, Schifano and McCorry denied the allegations made in the Statement of Claim and asserted the following defenses: that the statement of claim fails to allege a cause of action upon which relief may be granted; the claims asserted relate to actions of third parties; investments were the result of Claimant's independent investment decisions; Respondents Schifano and McCorry acted in good faith; Claimant's claims are barred by all applicable statutes of limitations; Claimant's failure to timely object to any of the transactions of which she complains constitutes a ratification of these transactions and a waiver or estoppel of Claimant's right to any recovery sought in the Statement of Claim; the claims are barred in whole or in part by Claimant's contributory negligence; doctrine of avoidable consequences, doctrine of assumption of risk; failure to mitigate damages; and standing.

Unless specifically admitted in its Answer, Royal Alliance denied the allegations made in the Statement of Claim and asserted the following defenses: that the statement of claim fails to allege any claim for relief against it; Claimant, through Ms. Barbara Lathrop, authorized all transactions at issue after being apprised of all potential penalties; no guaranty of investment results; assumption of risk and comparative fault; market vagaries and volatility; adequate supervision; total portfolio; ratification; equitable defenses, failure to mitigate damages; statute of limitations; disclosure of risks; no private right of action; *no basis in law or fact for punitive damages.*

RELIEF REQUESTED

Claimant in the Statement of Claim requested:

Compensatory Damages (approximately)	\$175,000
Punitive Damages	\$300,000

Attorneys' Fees
Other Costs

unspecified
unspecified

Schifano and McCorry requested an award dismissing the Statement of Claim.

Royal Alliance requested that the Statement of Claim be dismissed against it and that such other further relief as the panel deems just and appropriate be awarded.

OTHER ISSUES CONSIDERED AND DECIDED

SMA did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration or an answer but having received the statement of claim, appeared and was represented at the hearing, is bound by the determination of the Panel on all issues submitted.

Royal Alliance did not file a Uniform Submission Agreement, but did answer the claim and appeared at the initial hearing.

Royal Alliance was dismissed from this case as a Respondent at the first day of the hearing by Claimant.

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

1. That Respondents Schifano-McCorry Associates, Joseph Schifano and Daniel McCorry are jointly and severally liable to Claimant and shall pay to Claimant the sum of \$95,242.00; no prejudgment interest is awarded on this amount but post judgment interest at the rate of 6% simple interest per annum will begin to accrue 30 days after receipt of this Award.
2. That Claimant's request for punitive damages is denied in its entirety.

3. That all claims against Money Talk are denied in their entirety.
4. That Claimant is liable to Respondent Royal Alliance Associates, Inc. for costs and shall pay to Royal Alliance the sum of \$1,401.28.
5. That the parties shall bear their respective attorneys' fees and costs, except as Fees are specifically addressed below.
6. That any and all other claims for relief not specifically addressed herein are denied in their entirety.

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	= \$ 300
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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 events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$ 2,500

Forum Fees and Assessments

The arbitrator (panel) has the authority to assess 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:

Three (3) Pre-hearing sessions with Panel x \$1,125	= \$ 3,375
Pre-hearing conferences:	
September 11, 2000	1 session
February 9, 2001	1 session
March 27, 2001	1 session
Fourteen (14) Hearing sessions x \$1,125	= \$15,750
Hearing Dates:	
March 12, 2001	2 sessions

March 13, 2001	2 sessions
June 4, 2001	2 sessions
June 5, 2001	2 sessions
June 11, 2001	2 sessions
June 12, 2001	2 sessions
August 28, 2001	2 sessions

Total Forum Fees	= \$19,125
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The Panel has assessed forum fees in the amount of \$9,562.50 against Claimant.
The Panel has assessed forum fees in the amount of \$9,562.50 against Respondents
Schifano, McCorry and Schifano-McCorry Associates, 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.

Claimant, tape duplication	= \$120
Respondents Schifano, McCorry and SMA, tape duplication	= \$195

Fee Summary

Claimant is assessed the following fees:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$9,562.50
Administrative Costs	= \$ 120.00

Total Fees	= \$9,982.50
Less payments	= \$1,545.00

Balance Due NASD Dispute Resolution, Inc.	= \$8,437.50
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Royal Alliance is assessed the following fee:

Member Fee	= \$4,600.00
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Total Fees	= \$4,600.00
Less payments	= \$4,600.00

Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00
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Respondents SMA, Schifano and McCorry are jointly and severally assessed:

Forum Fees = \$9,562.50

Administrative Costs = \$ 195.00

Total Fees = \$9,757.50

Less payments = \$ 195.00

Balance Due NASD Dispute Resolution, Inc. = \$9,562.50

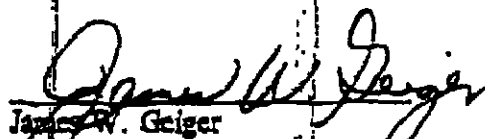
All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

<i>James W. Geiger</i>	-	<i>Public Arbitrator, Presiding Chairman</i>
<i>Robert L. Dennis</i>	-	<i>Public Arbitrator, Panelist</i>
<i>David S. Molotsky</i>	-	<i>Non-Public Arbitrator, Panelist</i>

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Concurring Arbitrators' Signatures


James W. Geiger
Public Arbitrator, Presiding Chairman

12/15/01
Signature Date

Robert L. Dennis
Public Arbitrator, Panelist

Signature Date

David S. Molotsky
Non-Public Arbitrator, Panelist

Signature Date

December 19, 2001
Date of Service (For NASD-Dispute Resolution office use only)

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James W. Geiger
Public Arbitrator, Presiding Chairman

Signature Date



Robert L. Dennis
Public Arbitrator, Panelist



Signature Date

David S. Molotsky
Non-Public Arbitrator, Panelist

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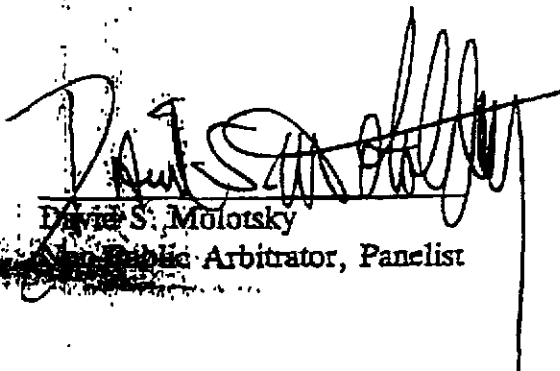
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