

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

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In the Matter of the Arbitration Between:

Helen M. Erpelding and Gerald P. Erpelding v. Steve P. Walsh and VSR Financial Services, Inc.

Case Number: 99-2031

Hearing Site: Omaha, Nebraska

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**REPRESENTATION OF PARTIES**

Claimants, Helen M. Erpelding ("Helen") and Gerald P. Erpelding ("Gerald"), hereinafter collectively referred to as "Claimants": pro se.

Respondents, Steve P. Walsh ("Walsh") and VSR Financial Services, Inc. ("VSR"), hereinafter collectively referred to as "Respondents": J. Michael Dryton, Esq., Overland Park, Kansas.

**CASE INFORMATION**

Statement of Claim filed on or about: May 3, 1999

Supplement to Statement of Claim filed on or about: May 24, 1999

Claimant Helen M. Erpelding signed the Uniform Submission Agreement: May 25, 1999

Claimant Gerald P. Erpelding signed the Uniform Submission Agreement: May 25, 1999

Statement of Answer filed by Respondents, on or about: August 20, 1999

Respondent VSR signed the Uniform Submission Agreement: August 20, 1999

Respondent Walsh signed the Uniform Submission Agreement: August 20, 1999

**CASE SUMMARY**

Claimants allegations included the following, Mr. Steve Walsh of DeWaay & Associates:

1. Did not acknowledge Claimants' risk tolerance and conservative investment philosophy;
2. Invested their money in unsuitable investments for their age;
3. Did not furnish adequate information in response to questions;
4. Inadequate diversification;
5. Encouraged Claimants to sell one investment and reinvest ;
6. Distribution was lost for a period of time;
7. Would not furnish Claimants with timely statements of account;
8. Two high-risk investments have become worthless;
9. Someone else signed Helen's name for the notarized signature on the Cole Phoenix document.

Unless specifically admitted in their Answer, Respondents Walsh and VSR denied the

allegations made in the Statement of Claim and asserted the following defenses: the investments complained of were suitable for Claimants, Claimants made these investments with full disclosure and appreciation of the risks, and the claims are barred by the statute of limitations.

### **RELIEF REQUESTED**

Claimants requested damages of \$25,000.00, plus interest and professional and arbitration expenses in their statement of claim; their damages presented at hearing were as follows:

Keller	\$17,812.50	(\$15,000 principal plus interest since March, 1996)
U.S. Auto	\$10,583.30	(\$5000 Gerald, \$5000 Helen principal plus interest since December, 1999)
Cole Phoenix	\$ 750.00	(for 4 <sup>th</sup> quarter 1998 distribution plus interest)
Arbitration Expenses	\$ 1,800.00	(approximately)
TOTAL	\$31,000.00	approximately

Respondents requested: dismissal, plus attorneys' fees and expenses

### **OTHER ISSUES CONSIDERED AND DECIDED**

DeWaay & Associates declined to voluntarily submit to arbitration in the above-captioned matter per August 20, 1999, correspondence. Any and all claims against this entity were not adjudicated by the Arbitrator.

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, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents VSR Financial Services, Inc. and Steve P. Walsh are jointly and severally liable for and shall pay to Claimants Helen M. Erpelding and Gerald P. Erpelding the sum of \$3,500.00 in compensatory damages;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;

- 3.) That any relief not specifically enumerated, is hereby denied with prejudice.

### **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 = \$125.00

#### **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 firm is a party.

Member surcharge = \$400.00

#### **Adjournment Fees**

Adjournments requested during these proceedings: N/A

#### **Forum Fees and Assessments**

The Arbitrator 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 a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: January 6, 2000 1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date: April 14, 2000 2 sessions

Total Forum Fees = \$1,350.00

The Arbitrator has assessed \$675.00 of the forum fees jointly and severally to Helen M. Erpelding and Gerald P. Erpelding.

The Arbitrator has assessed \$675.00 of the forum fees jointly and severally to and VSR Financial Services, Inc. and Steve P. Walsh.

### **Fee Summary**

Claimants, Helen M. Erpelding and Gerald P. Erpelding, be and hereby are jointly and severally liable for:

Initial Filing Fee = \$ 125.00

Forum Fees = \$ 675.00

Total Fees = \$ 800.00

Less payments = \$ 575.00

Balance Due NASD Regulation, Inc. = \$ 225.00

Date of Service (For NASD office use only)