
Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Kathleen M. Rector v. Joseph Scott Hayner and Everen Securities, Inc.

Case Number: 99-04365

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimant, Kathleen M. Rector ("Rector"), hereinafter referred to as "Claimant": Braden W. Sparks, Esq., Law Office of Braden W. Sparks, Dallas, Texas.

Respondent, Everen Securities, Inc. ("Everen") hereinafter referred to as "Respondent Everen": Retta A. Miller, Esq., Jackson and Walker, Dallas, Texas.

Respondent, Joseph S. Hayner ("Hayner"), hereinafter referred to as "Respondent Hayner": Patricia Nolan, Esq., Thompson & Knight, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: September 24, 1999.

Claimant, Kathleen M. Rector, signed the Uniform Submission Agreement: September 23, 1999.

Statement of Answer filed by Respondent, Everen Securities, Inc., on or about: December 3, 1999.

Respondent, Everen Securities, Inc., signed the Uniform Submission Agreement: December 2, 1999.

Statement of Answer filed by Respondent, Joseph S. Hayner, on or about: May 17, 2000.

Respondent, Joseph S. Hayner, signed the Uniform Submission Agreement: May 3, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: negligence, breach of fiduciary duty, misrepresentation, churning, omission of fact and failure to supervise. The causes of action relate to the purchase and sale of securities including America Online and Amazon.com in her account at Everen Securities by Respondent Hayner.

Unless specifically admitted in its Answer, Respondent Everen Securities denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant's Statement of Claim fails to state a claim upon which relief can be granted; Claimant assumed the risk associated with the securities in her account; and Claimant's claims are barred by the doctrine of laches.

Unless specifically admitted in its Answer, Respondent Joseph S. Hayner denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant authorized and approved transactions in the account, therefore Claimant should be estopped from contesting the trades at issue; Claimant ratified the trades in this account and should therefore be estopped from contesting the trades at issue; and Claimant fails to state a claim upon which relief can be granted.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$534, 078.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

Respondent Everen Securities, Inc. requested:

Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

Respondent Joseph S. Hayner requested:

Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That any and all requests for relief are hereby dismissed and denied in their entirety;
2. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$375
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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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party and the Respondent's former firm.

Member surcharge	= \$2,000
Pre-hearing process fee	= \$600
Hearing process fee	= \$3,500

Adjournment Fees

Adjournments requested during these proceedings:

January 8-10, 2000, adjournment by Claimant Kathleen Rector= \$1,200

August 28-30, 2000, adjournment by Respondent Everen Securities, Inc.= \$1,200

Forum Fees and Assessments

The arbitration 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,200	= \$1,200
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Pre-hearing conference:	May 27, 2000	1 session
Four (4) Hearing sessions x \$1,200		= \$4,800
Hearing Dates:	March 22, 2001	2 sessions
	March 23, 2001	2 sessions
Total Forum Fees		= \$6,000

1. The arbitration panel has assessed \$6000 of the forum fees and the \$1200 postponement fee to Claimant Kathleen Rector.
2. The arbitration panel has assessed \$1,200 postponement fee to Everen Securities, Inc.

Fee Summary

1. Claimant, Kathleen Rector, be and hereby is solely liable for:

Initial Filing Fee	= \$375
Adjournment Fee	= \$1200
Forum Fees	= \$6000
<u>Administrative Costs</u>	= \$ 0
Total Fees	= \$7,575
<u>Less payments</u>	= \$2,775
Balance Due NASD Dispute Resolution, Inc.	= \$4,800
2. Respondent, Everen Securities, Inc. be and hereby is solely liable for:

Member Fees	= \$6,100
Adjournment Fee	= \$1,200
Forum Fees	= \$0
<u>Administrative Costs</u>	= \$0
Total Fees	= \$7,300
<u>Less payments</u>	= \$7,300
Zero Balance	= \$0

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Jonathan A. Pace, Esq.	-	Public Arbitrator, Presiding Chair
Joe S. Shepherd	-	Public Arbitrator
Kurt L. Smith	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Johnathan A. Pace

May 11, 2001

Jonathan A. Pace
Public Arbitrator, Presiding Chair

Signature Date

/s/ Joe S. Shepherd

May 10, 2001

Joe S. Shepherd
Public Arbitrator

Signature Date

/s/ Kurt L. Smith

May 14, 2001

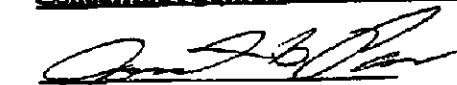
Kurt L. Smith
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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Concurring Arbitrators' Signature(s)


Jonathan A. Pace
Public Arbitrator, Presiding Chair

Aug 11, 2001
Signature Date

Joe S. Shepherd
Public Arbitrator

Signature Date

Kurt L. Smith
Non-Public Arbitrator


Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

Concurring Arbitrators' Signature(s)

Jonathan A. Pace
Public Arbitrator, Presiding Chair

Signature Date


Joe S. Shepherd
Public Arbitrator

10 May 2001
Signature Date

Kurt L. Smith
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

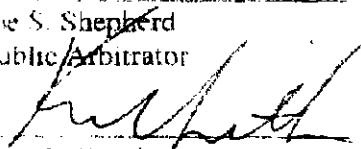
(Concurring Arbitrators' Signature(s))

Jonathan A. Pace
Public Arbitrator, Presiding Chair

Signature Date

Joe S. Shepherd
Public Arbitrator

Signature Date


Kurt L. Smith
Non Public Arbitrator

5.14.01
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)