

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Bernard Feldman, Susan Feldman, and Zane Feldman, Claimants v. Fiserv Correspondent Services, Inc., Respondent

Case Number: 99-04614

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Arthur S. Leider  
Investors Arbitration  
Specialists  
San Diego, California

For Respondent:

Steven D. Plissey, Esq.  
Williams, Youle & Koenigs,  
P.C.  
Denver, Colorado

**CASE INFORMATION**

Statement of Claim filed: October 6, 1999

Claimant Bernard Feldman's Uniform Submission Agreement signed: October 23, 1999

Claimant Susan Feldman's Uniform Submission Agreement signed: September 22, 1999

Claimant Zane Feldman's Uniform Submission Agreement signed: October 24, 1999

Statement of Answer filed by Respondent: February 1, 2000

Respondent's Uniform Submission Agreement signed: December 29, 1999

**CASE SUMMARY**

Claimants alleged fraud, offer and sale of unregistered securities, and breach of fiduciary duty.

Respondent denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$250,000.00 in compensatory damages, \$200,000.00 in punitive damages, and sought interest. Claimants also sought \$50,000.00 for reimbursement of representation fees and arbitration costs.

Respondent requested dismissal of Claimants' Statement of Claim in its entirety, and sought reimbursement for attorney's fees and arbitration costs.

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

At the commencement of the hearing, the Arbitration Panel heard oral argument on Respondent's Motion for Summary Judgment and Claimant's opposition.

The parties 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 and the argument of the parties regarding Respondent's Motion for Summary Judgment, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent's Motion for Summary Judgment is granted with prejudice. All the Claimant's claims are denied in their entirety.
- 2) Respondent is liable to and shall pay Claimant \$375.00 for reimbursement of the arbitration filing fee.
- 3) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 300.00
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### **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 Fiserv Correspondent Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 2,500.00
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

### **Adjournment Fees**

The following adjournment fees are assessed:

Hearing Dates, November 28, 2000 through November 29, 2000 adjournment requested by Respondent	= \$ 1,125.00
Hearing Dates, April 18, 2001 through April 20, 2001 adjournment requested by Respondent	= \$ 1,000.00

### **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 @ \$ 1,125.00/session	= \$ 2,250.00
Pre-hearing conferences: June 28, 2000 1 session	
September 6, 2000 1 session	
1 Hearing session @ \$ 1,125.00/session	= \$ 1,125.00
Hearing: May 14, 2001 1 session	
<b>Total Forum Fees</b>	<b>= \$ 3,375.00</b>

The Panel assessed \$ 3,375.00 of the forum fees to Respondent.

### **Fee Summary**

1. Claimants Bernard Feldman, Susan Feldman, and Zane Feldman are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$ (1,425.00)
<b>Refund Due Claimants</b>	<b>= \$ (1,125.00)</b>

2. Respondent Fiserv Correspondent Services, Inc. is charged with the following fees and costs:

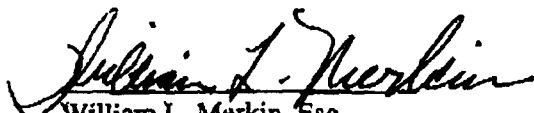
Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 2,125.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 10,100.00
<u>Less payments</u>	<u>= \$ (6,725.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 3,375.00</b>

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

ARBITRATION PANEL

<i>William L. Merkin, Esq.</i>	-	<i>Public, Presiding Chair</i>
<i>Charles B. Shryock</i>	-	<i>Public Arbitrator</i>
<i>Walter W. Klosterman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

  
William L. Merkin, Esq.  
Chair, Public Arbitrator

5/18/01  
Signature Date

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Charles B. Shryock  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Walter W. Klosterman  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

May 21, 2001  
Date of Service

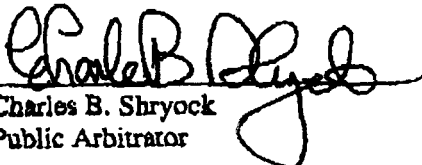
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William L. Merkin, Esq.  
Chair, Public Arbitrator

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Signature Date

  
Charles B. Shryock  
Public Arbitrator

5/20/01  
Signature Date

\_\_\_\_\_  
Walter W. Klosterman  
Non-Public Arbitrator

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Signature Date

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Chair, Public Arbitrator

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Signature Date

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Charles B. Shryock  
Public Arbitrator

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Signature Date



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Walter W. Klosterman  
Non-Public Arbitrator

*5/18/01*  
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Signature Date

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Date of Service