

AWARD
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Richard J. Felter and the Rosemary Felter
Trust, by Richard J. Felter, Trustee

vs.

Case Number: 13-03374
Hearing Site: Des Moines, Iowa

Names of Respondents

National Planning Corporation
and Joseph Russo

NATURE OF THE DISPUTE

Customers vs. Member and Associated Person

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

Richard J. Felter and the Rosemary Felter Trust, by Richard J. Felter, Trustee ("Claimants") were represented by Gail E. Boliver, Esq., Boliver Law Firm, Marshalltown, Iowa.

National Planning Corporation ("NPC") and Joseph Russo ("Russo"), hereinafter collectively referred to as "Respondents," were represented by Jesse Linebaugh, Esq., Faegre Baker Daniels, LLP, Des Moines, Iowa.

CASE INFORMATION

The Statement of Claim was filed on or about November 15, 2013. The Submission Agreement of Claimants was signed on or about November 15, 2013.

The Statement of Answer was filed jointly by Respondents on or about January 31, 2014. The Submission Agreement of NPC was signed on or about December 2, 2013, by Sean Haley, Sr. Vice President & CCO. The Submission Agreement of Russo was signed on or about January 30, 2014.

CASE SUMMARY

Claimants asserted the following causes of action: suitability; failure to supervise; breach of fiduciary duty; misrepresentation; negligence; and violations of FINRA Rules. The causes of action related to Claimants' allegations that they replaced a major component of their retirement income with a speculative, illiquid, single building, single tenant lease through a 1031 exchange at Respondents' recommendation. Claimants asserted that this investment resulted in an overconcentration of Claimants' assets and was not suitable for Claimants' investment objectives and risk tolerance.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$2,548,265.94
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

At the close of the hearing, Claimants asserted a range of compensatory damages between \$1,800,000.00 and \$2,500,000.00 and breach of fiduciary duty and emotional distress damages at the Panel's discretion.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs, attorneys' fees, and other appropriate relief.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On or about March 31, 2014, Respondents filed a Motion to Dismiss Under FINRA Rule 12206. On or about May 14, 2014, Claimants filed an Objection to Respondents' Motion to Dismiss. On or about May 27, 2014, Respondents filed a Reply in Support of Their Motion to Dismiss. In its Order entered on or about July 14, 2014, the Panel denied Respondents' Motion to Dismiss.

On the record at the hearing, after Claimants' case-in-chief, Respondents moved for dismissal under Rule 12206. The Panel took the Motion under advisement and the Panel denies the Motion herein.

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 the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, National Planning Corporation and Joseph Russo, are jointly and severally liable for and shall pay to Claimants, Richard J. Felter and the Rosemary Felter Trust, by Richard J. Felter, Trustee, the sum of \$1,200,000.00 in compensatory damages;
- 2.) Respondents, National Planning Corporation and Joseph Russo, are jointly and severally liable for and shall pay to Claimants, Richard J. Felter and the Rosemary Felter Trust, by Richard J. Felter, Trustee, the sum of \$20,000.00 in expert witness fees;
- 3.) Respondents, National Planning Corporation and Joseph Russo, are jointly and severally liable for and shall pay to Claimants, Richard J. Felter and the Rosemary Felter Trust, by Richard J. Felter, Trustee, the sum of \$600.00 as reimbursement of the non-refundable portion of the filing fee; and
- 4.) Any relief not specifically enumerated, including attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain the non-refundable filing fee* for each claim:

Initial Claim filing fee = \$ 1,800.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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. Accordingly, as a party National Planning Corporation is assessed the following:

Member surcharge	= \$	2,800.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	5,000.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each hearing session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$	2,400.00
Pre-hearing conferences: May 6, 2014	1 session	
July 14, 2014	1 session	
Eight (8) Hearing sessions x \$1,200.00	= \$	9,600.00
Hearing Dates: January 20, 2014	2 sessions	
January 21, 2014	2 sessions	
January 22, 2014	2 sessions	
January 23, 2014	2 sessions	
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Total Hearing Session Fees	= \$	12,000.00

The Panel has assessed \$12,000.00 of the hearing session fees jointly and severally to National Planning Corporation and Joseph Russo.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

John J. Miller - Public Arbitrator, Presiding Chair
Thomas J. Duff - Public Arbitrator
Alan B. Fender - Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures:

/s/ John J. Miller
John J. Miller
Public Arbitrator, Presiding Chair

02/10/15
Signature Date

/s/ Thomas J. Duff
Thomas J. Duff
Public Arbitrator

02/13/15
Signature Date

/s/ Alan B. Fender
Alan B. Fender
Non-Public Arbitrator

02/10/15
Signature Date

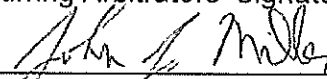
02/13/15
Date of Service (For FINRA office use only)

ARBITRATION PANEL

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Thomas J. Duff - Public Arbitrator
Alan B. Fender - Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures:



John J. Miller
Public Arbitrator, Presiding Chair

Feb. 10, 2015
Signature Date

Thomas J. Duff
Public Arbitrator

Signature Date

Alan B. Fender
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA office use only)

ARBITRATION PANEL

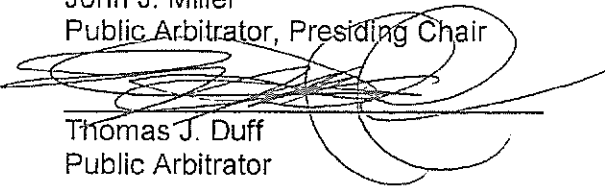
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Public Arbitrator, Presiding Chair

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Public Arbitrator

2-13-15

Signature Date

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Non-Public Arbitrator

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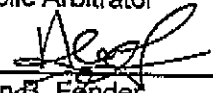
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Public Arbitrator, Presiding Chair

Signature Date

Thomas J. Duff
Public Arbitrator

Signature Date



Alan B. Fender
Non-Public Arbitrator

02/10/15

Signature Date

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