

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Bernice Kramer

Case Number: 07-02447

Names of the Respondents
Traderight Securities, Inc.
Newbridge Securities Corp.
Linsco/Private Ledger Corp.
Leighton David Applefeld

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Bernice Kramer ("Kramer"), hereinafter referred to as "Claimant": **Scott L. Silver, Esq.**, Blum & Silver, LLP, Coral Springs, Florida.

For Traderight Securities, Inc. ("Traderight"), hereinafter referred to as "Respondent Traderight": Andrew S. May, Esq., May Law, PC, Lincolnwood, Illinois.

For Linsco/Private Ledger Corp. ("Linsco"), hereinafter referred to as "Respondent Linsco": Brad Jacobs, Esq., Linsco/Private Ledger Corp., Boston, Massachusetts.

For Newbridge Securities Corp. ("Newbridge"), hereinafter referred to as "Respondent Newbridge": Gregg Breitbart, Esq., Newbridge Securities Corp., Fort Lauderdale, Florida.

Leighton David Applefeld ("Applefeld"), hereinafter referred to as "Respondent Applefeld", appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2007.

Claimant signed the Uniform Submission Agreement: August 9, 2007.

Statement of Answer filed by Respondent Traderight on or about: October 15, 2007.

Respondent Traderight signed the Uniform Submission Agreement: October 23, 2007.

Statement of Answer and Cross-Claim filed by Respondent Linsco on or about: October 23, 2007.

Respondent Linsco signed the Uniform Submission Agreement: August 31, 2007.

Motion for Default against Respondent Applefeld filed by Claimant on or about: October 30, 2007.

Statement of Answer and Response to Motion for Default filed by Respondent Applefeld on or about: November 16, 2007.

Respondent Applefeld signed, but did not date, the Uniform Submission Agreement.

Motion for Sanctions against Respondent Applefeld filed by Claimant on or about: May 1, 2008.

Response to Motion for Sanctions filed by Respondent Applefeld on or about: May 11, 2008.

Respondent Newbridge did not file a signed Uniform Submission Agreement or a Statement of Answer.

CASE SUMMARY

Claimant asserted the following causes of action: 1) affinity fraud; 2) liability by Respondents Newbridge, Linsco and Traderight for the actions of Respondent Applefeld; 3) breach of fiduciary duty; 4) violation of Florida Statute §415; 5) variable annuity switching; 6) selling away; 7) failure to supervise; 8) violation of industry rules, including NYSE's "Know your customer" standard (Rule 405) and NASD's customer suitability standard (Rule 2310); 9) breach of contract; 10) common law fraud; and, 11) negligence. The causes of action relate to, among other things, Claimant's investment in the hedge fund, MRT, LLC.

Unless specifically admitted in their respective Answers, Respondents Linsco and Traderight denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In his Answer, Respondent Applefeld denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$298,165.53, interest from the date of purchase or reasonable market return, rescission, an unspecified amount of punitive damages, costs and such other relief as the undersigned arbitrators (the "Panel") deemed just and proper.

At the conclusion of the evidentiary hearing, Claimant requested that Respondent Applefeld be held liable for Claimant's attorneys' fees.

Respondent Traderight requested dismissal of the Statement of Claim.

Respondent Linsco requested dismissal or denial of the Statement of Claim in its entirety, attorneys' fees and costs.

Respondent Applefeld requested all of his arbitration costs, including any and all reasonable attorneys' fees that he may incur as a result of defending this suit.

OTHER ISSUES CONSIDERED AND DECIDED

In its Statement of Answer, Respondent Linsco included a cross-claim against Respondent Applefeld for indemnification, but did not submit the requisite filing fee in order for FINRA Dispute Resolution to process this claim. In correspondence dated October 25, 2008, FINRA Dispute Resolution notified Respondent Linsco of this deficiency, and that, pursuant to Rule 12307(c) of the Code of Arbitration Procedure (the "Code"), if the deficiency was not corrected, the Panel would proceed with the arbitration

as though the deficient cross-claim had not been made. Respondent Linsco did not cure the deficiency. As such, the cross-claim was not deemed filed and was not considered by the Panel.

On or about March 19, 2008, Claimant filed a notice of dismissal of all claims, with prejudice, asserted against Respondent Linsco.

On or about June 6, 2008, and prior to the filing of a Statement of Answer by Respondent Newbridge, Claimant filed a notice of dismissal of all claims, with prejudice, asserted against Respondent Newbridge.

On or about August 6, 2008, Claimant dismissed all claims against Respondent Traderight, with prejudice.

Claimant filed a Motion for Default premised upon Respondent Applefeld's failure to timely file a Statement of Answer. In response, Respondent Applefeld filed a Statement of Answer and Response to Motion for Default. Thereafter, the Panel reviewed the submissions and deemed Claimant's Motion for Default moot.

Claimant filed a Motion for Sanctions in which Claimant asserted that Respondent Applefeld failed to provide documents and information to Claimant in accordance with the Panel's Order dated March 24, 2008. In response, Respondent Applefeld asserted that he was attempting to comply with the Panel's Order and believed that the Panel had extended his deadline for compliance. On or about June 6, 2008, the Panel issued an Order that granted Claimant's Motion for Sanctions to the extent that if Respondent Applefeld failed to comply with the Panel's March 24, 2008 Order by June 13, 2008, then the Panel would consider striking Respondent Applefeld's pleadings, prohibiting Respondent Applefeld from producing any evidence at the final hearing, and/or imposing adverse inferences for Respondent Applefeld's failure to comply with the Panel's Orders. On or about June 13, 2008, Respondent Applefeld filed a notarized affidavit stating that he does not possess any of the documents requested.

Respondent Applefeld did not appear for the evidentiary hearing conducted on August 11, 2008. Upon review of the file and the representations made by/on behalf of Claimant, the Panel determined that Respondent Applefeld was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration in this matter would proceed without Respondent Applefeld present, in accordance with the Code. Specifically, the Panel found that FINRA Dispute Resolution provided Respondent Applefeld with a copy of the initial pre-hearing conference scheduling order, which set forth the evidentiary hearing dates. Subsequently, Respondent Applefeld acknowledged the date of the evidentiary hearings in his May 11, 2008 Response to Claimant's Motion for Sanctions, which was submitted to the Panel. Lastly, on August 7, 2008, FINRA Dispute Resolution sent a written reminder/confirmation of the evidentiary hearing dates and time to the parties. At the outset of the evidentiary hearing, the Panel determined that Respondent Applefeld's confirmation had been successfully transmitted to him.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Applefeld is liable on the claims of common law fraud, breach of fiduciary duty, violation of Chapter 415, Florida Statutes, and unsuitability, and shall pay to Claimant compensatory damages in the amount of \$280,403.88, plus interest at the Florida statutory rate, accruing as follows: on \$140,403.88, from April 6, 2008 until the award is paid in full; on \$90,000.00, from May 25, 2006 until the award is paid in full; and, on \$50,000.00, from December 28, 2006 until the award is paid in full.

Respondent Applefeld fraudulently induced Claimant, an elderly vulnerable adult, to invest in a security and then absconded with Claimant's funds for his own use and benefit, constituting common law fraud and a violation of Chapter 415 of the Florida Statutes. Based upon Respondent Applefeld's fraudulent conduct and violation of Chapter 415 of the Florida Statutes, and in accordance with Section 772.11 of the Florida Statutes, the Panel hereby awards to Claimant punitive/treble damages in the amount of \$841,211.64. Accordingly, Respondent Applefeld is liable for and shall pay said amount to Claimant.

In accordance with Chapter 415 of the Florida Statutes, Respondent Applefeld is liable for and shall reimburse Claimant for her attorneys' fees in an amount to be determined by a court of competent jurisdiction.

Respondent Applefeld is liable for and shall reimburse Claimant in the amount of \$300.00, representing the non-refundable portion of the claim filing fee paid by Claimant to FINRA Dispute Resolution.

Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial claim filing fee = \$ 1,425.00

**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Respondents Traderight, Linsco, and Newbridge were parties to this dispute and are member firms. Accordingly, the following member fees have been assessed:

Respondent Traderight Member surcharge	= \$ 1,700.00
Respondent Traderight Pre-hearing process fee	= \$ 750.00
Respondent Traderight Hearing process fee	= \$ 2,750.00
Respondent Linsco Member surcharge	= \$ 1,700.00
Respondent Linsco Pre-hearing process fee	= \$ 750.00
Respondent Linsco Hearing process fee	= \$ 2,750.00
Respondent Newbridge Member surcharge	= \$ 1,700.00
Respondent Newbridge Pre-hearing process fee	= \$ 750.00
Respondent Newbridge Hearing process fee	= \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were assessed during these proceedings.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on a discovery-related motion on the papers
with one (1) arbitrator @ \$200.00/decision = \$ 200.00
Claimant submitted one (1) discovery-related motion

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: April 8, 2008 1 session
June 2, 2008 1 session

One (1) Hearing session @ \$1,125.00/session = \$1,125.00

Hearing Date: August 11, 2008 1 session
Total Hearing Session Fees = **\$3,575.00**

The Panel has assessed the total of the hearing session fees of \$3,575.00 solely to Respondent Applefeld.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.


No administrative costs were assessed during these proceedings.

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

ARBITRATION PANEL

Randy R. Freedman	-	Public Arbitrator, Presiding Chairperson
David Rich	-	Public Arbitrator
Lanny M. Leff	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Randy R. Freedman
Public Arbitrator, Presiding Chairperson

8/14/08
Signature Date

David Rich
Public Arbitrator

Signature Date

Lanny M. Leff
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

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