

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimants

Evelyn Brandin, IRA and Evelyn Brandin,
Trustee of the Brandin Family Trust

Case Number: 07-01095

Names of the Respondents

James R. Thomas, James Burchard, SJB
Investments, LLC, and JKR & Company

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Customers v. Member, Non-Member and Associated Persons

REPRESENTATION OF PARTIES

Claimants Evelyn Brandin, IRA and Evelyn Brandin, Trustee of the Brandin Family Trust, hereinafter collectively referred to as "Claimants"; David Liebrader, Esq., Law Offices of David Liebrader, APC, Las Vegas, Nevada

Respondents James R. Thomas and JKR & Company, hereinafter collectively referred to as "Respondents"; John P. Cione, Esq., Solana Beach, California

Respondent James Burchard: James Burchard, Pro Se, Las Vegas, Nevada

Respondent SJB Investments, LLC: SJB Investments, LLC, Las Vegas, Nevada

CASE INFORMATION

Statement of Claim filed: March 30, 2007

Claimants signed the Uniform Submission Agreement but did not date it

Joint Statement of Answer filed by Respondents James R. Thomas and JKR & Company: June 20, 2007

Respondent James R. Thomas signed the Uniform Submission Agreement: August 9, 2007

Respondent JKR & Company signed the Uniform Submission Agreement: August 9, 2007

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CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, omissions and misrepresentations, negligence, violation of Nevada Revised Statutes sections 90.570 and 90.660, violation of Nevada Revised Statutes section 598.02 et seq. (deceptive trade practices), and violation of Nevada Revised Statutes section 688C et seq. and 688.510(2) (improper sale of viatical contracts). The causes of action relate to the sale of viaticals to Claimants.

Respondents James R. Thomas and JKR & Company denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Rescission of the investments, or, in the alternative, compensatory damages in the amount of \$304,671.00;
2. Consequential damages;
3. Disgorgement and restitution of compensation received by Respondents as a result of their allegedly unlawful actions;
4. Punitive and exemplary damages pursuant to Nevada Revised Statutes Chapter 42.001 et seq.;
5. Lost opportunity cost of what Claimants' investments would have earned under a well managed account theory;
6. Pre-award and post-award interest;
7. Attorney's fees;
8. Costs; and
9. Other and further relief.

On April 15, 2008, Claimants filed a Statement of Damages requesting:

1. Compensatory damages in the amount of \$304,671.00;
2. Interest at the legal rate in the amount of \$127,821.00;
3. Attorney's fees in the amount of \$144,020.00;
4. Expert witness fees in the amount of \$7,500.00;
5. Additional principal contributed in the amount of \$24,900.00; and
6. Rescission: return of MBC viaticals to Respondents.

In their Answer, Respondents James R. Thomas and JKR & Company requested dismissal of Claimants' Statement of Claim in its entirety and attorney's fees.

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OTHER ISSUES CONSIDERED AND DECIDED

Respondent James Burchard did not appear at the arbitration hearing.

Respondent SJB Investments, LLC did not voluntarily submit to FINRA Dispute Resolution's jurisdiction.

Respondents James R. Thomas and JKR & Company filed a Motion to Dismiss, dated March 27, 2008. Claimants filed an Opposition to the Motion to Dismiss, dated April 17, 2008. On April 23, 2008, the parties and the panel participated in a pre-hearing conference during which the panel heard oral argument regarding Respondents' motion. Later that day, the panel issued an order denying the motion.

AWARD

After considering the pleadings, testimony and evidence presented at the hearing, the arbitration panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents James R. Thomas, James Burchard, and JKR & Company are jointly and severally liable to and shall pay Claimants the sum of \$329,571.00 in compensatory damages.
- 2) Respondents James R. Thomas, James Burchard, and JKR & Company are jointly and severally liable to and shall pay Claimants interest in the amount of \$127,821.00 on \$304,671.00 from August 1, 2003 until May 1, 2008.
- 3) Respondents James R. Thomas, James Burchard, and JKR & Company are jointly and severally liable to and shall pay Claimants the sum of \$11,300.00 as reimbursement for expert witness fees.
- 4) Respondents James R. Thomas, James Burchard, and JKR & Company are jointly and severally liable to and shall pay Claimants the sum of \$144,020.00 in attorney's fees, which represents 1/3 of the damages recovered, pursuant to the contract for legal services rendered that had been entered into by Claimants and their counsel.
- 5) With the exception of the foregoing paragraphs, the parties shall bear their respective costs, including attorney's fees.
- 6) Respondents James R. Thomas, James Burchard, and JKR & Company are jointly and severally liable to and shall pay Claimants \$612,712.00 in punitive damages.
- 7) The panel hereby issues an order of rescission, whereby Claimants will return all

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MBC viaticals to Respondents James R. Thomas, James Burchard, and JKR & Company.

8) Any and all relief not specifically addressed herein is 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 = \$300.00

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 events giving rise to the dispute. Accordingly, JKR & Company Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 28, 2008, adjournment requested by Claimant = waived

The panel waived the adjournment fee.

Three-Day Cancellation Fees

Three-day cancellation fees apply when a hearing on the merits is postponed or settled within three business days before the start of the first scheduled hearing session. The following three-day cancellation fees are assessed:

Cancellation of April 28, 2008 hearing dates: = \$ 300.00

The Panel assessed \$300.00 of the three-day cancellation fee jointly and severally to Respondents James R. Thomas, James Burchard, and JKR & Company.

Forum Fees and Assessments

The arbitrators have assessed hearing session fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested

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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:

Two (2) pre-hearing conferences with the full panel @ \$1,125.00/session = \$2,250.00
 Pre-hearing conference dates: October 23, 2007 1 session
 April 23, 2008 1 session

Six (6) hearing sessions @ \$1,125.00/session = \$6,750.00
 Hearing dates: April 29, 2008 2 sessions
 April 30, 2008 2 sessions
 May 1, 2008 2 sessions

Total Forum Fees = \$9,000.00

The panel assessed \$9,000.00 of the forum fees jointly and severally to Respondents James R. Thomas, James Burchard, and JKR & Company Inc.

Fee Summary

1. Claimants are jointly and severally liable for:

Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$(1,475.00)</u>
Refund Due Claimants	= \$(1,175.00)

2. Respondent JKR & Company Inc. is solely liable for:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
Balance Due FINRA Dispute Resolution	= \$ 0.00

3. Respondents James R. Thomas, James Burchard and JKR & Company Inc. are jointly and severally liable for:

Forum Fees	= \$ 9,000.00
<u>Three-Day Cancellation Fee</u>	<u>= \$ 300.00</u>
Total Fees	= \$ 9,300.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due FINRA Dispute Resolution	= \$ 9,300.00

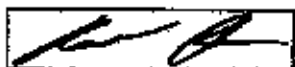
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

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ARBITRATION PANEL

<i>Robert Rosen</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Dee Newell</i>	-	<i>Public Arbitrator</i>
<i>Merrill Dean Taylor</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Robert Rosen
Public Arbitrator, Presiding Chairperson

5/7/08

Signature Date

Dee Newell
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Merrill Dean Taylor
Non-Public Arbitrator

Signature Date

5/9/08

Merrill Dean Taylor

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<i>Dea Newell</i>	-	<i>Public Arbitrator</i>
<i>Merrill Dean Taylor</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Robert Rosen
Public Arbitrator, Presiding Chairperson

Signature Date



5-8-08

Dea Newell
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Merrill Dean Taylor
Non-Public Arbitrator

Signature Date

5/9/08
Merrill Dean Taylor

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ARBITRATION PANEL

<i>Robert Rosen</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Dee Newell</i>	-	<i>Public Arbitrator</i>
<i>Merrill Dean Taylor</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Robert Rosen
Public Arbitrator, Presiding Chairperson

Signature Date

Dee Newell
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Merrill Dean Taylor
Merrill Dean Taylor
Non-Public Arbitrator

05-08-2008
Signature Date

5/9/08
Date of Review