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The First Annual

Securities Dispute Resolution *Triathlon*

A Three Skill Lawyering Event Consisting of Competitions in

Saturday and Sunday
October 17–18 | 2009
Manhattan Campus
101 Murray Street,
New York, NY

Triathlon Problem

Curb Your Enthusiasm?

Background:

This is a securities dispute between Sky Bleue, a fifty-five year old disgruntled investor and Robin Hughes, an independent stockbroker employed by Champion Investments Corporation (hereinafter CIC). Bleue is alleging Hughes defrauded (her) (him) by convincing (her)(him) to make a series of high-risk investments that caused (her) (him) to lose a significant bulk of (her)(his) $750,000 inheritance. Hughes defends that Bleue ignored all Hughes' advice to take a more balanced approach to investing. Rather, it was Bleue who insisted that Hughes invest Bleue's entire portfolio in high-risk investments, which (s) he (herself)(himself) selected.

Bleue and Hughes met in October of 2007 when Bleue accepted an invitation to hear Hughes speak about investment strategies *(see attached invitation)*. The seminar was held at Rive Gauche, an elegant new French Bistro in town.

Bleue was impressed with what Hughes had to say. "The current market is your best chance to expand your investment capital. The more money you invest, the greater the return you will generate. Your investment strategy today will influence the economic health of you and your heirs tomorrow. You can't afford to waste another dollar."

Hughes words echoed in Bleue's mind, piqued (her)(his) interest and seemed to be the economic life preserver that Bleue needed. For the past thirty years, Bleue has been a partner in a pottery and sculpture gallery. The gallery has yielded sufficient income for Bleue to pay the bills, live a life, but not much more. Unfortunately, Bleue had never managed to save any money for retirement. (S)he had no ideas how (s)he was going to retire or support (her)(his) eighteen-year-old child. Bleue had never married. Bleue's thirteen-year romantic relationship ended last year. Serendipitously, at the same time that Bleue was mourning the end of this romantic relationship, Bleue's dear uncle died and unexpectedly left (her)(him) $750,000. What timing! Buoyed by thoughts of having some financial cushion at last, Bleue started reading about strategies for investing. At that time, the invitation to Hughes' financial seminar arrived.

Hughes has been an independent stockbroker for twelve years with Champion Investments Corporation, a New York Stock Exchange firm and FINRA. According to Hughes' arrangement with CIC, Champion provided Hughes with CIC's good well and 75% of commissions earned while Hughes provided (his)(her) own office space and customers. Bright, aggressive and focused on expanding both (her)(his) client base and personal net worth, Hughes regularly conducted financial seminars. The announcement was a modified version of an announcement that had previously been approved by Finra.

After Hughes gave (her)(his) presentation, Bleue asked Hughes if they could meet to discuss an investment strategy that would provide Bleue with the economic health and comfort that Hughes had talked about. In November, 2007, Hughes and Bleue met at Hughes' Manhattan office. Hughes claims that as (his)(her) practice, Hughes spent time getting to know Bleue so Hughes could make suitable investment recommendations for Bleue. As

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Hughes remembers the meeting, Bleue reiterated that (her)(his) goal was to make money quickly before (her)(his) time ran out. Wasn't that what Hughes had promoted at the seminar? During the meeting, Hughes completed an account profile on Bleue. On the new Account Application, Bleue's income is listed as $480,000 and Bleue's initials are written next to the number even though Bleue's income actual income was $48,000 per year. Then, according to Hughes, (s)he suggested a portfolio that was suitable for Bleue consisting of mutuals, utilities, medium yield bonds, and several financial and tech stocks.

Hughes contends that Bleu was dissatisfied with the suggestion and reminded Hughes, "It's my account and I do not want the mutuals you suggested. Mutuals are so diversified that they do not tend to do much." Bleue admits saying something like this, but says (s)he also told Hughes (sh)he only wanted modest risk investments" because (s)he could not afford to loose her inheritance. At the end of the meeting, the Account Application form was completed, with the box indicating growth and income checked off. On November 11, 2007, the $750,000 was invested as follows: $50,000 in some low-risk utilities and medium-yield bonds and the remaining $700,000 in the three stocks that are the center of this controversy. It is the suitability of the three stocks, Serious, Inc. Ripp Enterprise and Big Car Co. that has been placed at issue in the Statement of Claim.

- 40 thousand shares of Serious, Inc., a startup satellite radio operation and a "pink sheet" company, which was purchased at $5 per share and which will drop in less than a year to zero because of bankruptcy;
- 10 thousand shares Big Car Co., on the NYSE, dropped from $60 per share earlier in 2007 to $25 by the time of purchase, and sold for $10 per share on December 11, 2008; and
- 25 thousand shares of Ripp Enterprises, Inc., a mid-size investment firm on NASDAQ, which was purchased at $10 per share and sold on December 11 at $3 per share.

From November 2007 until December of 2008, Bleue watched (her)(his) $750,000 golden egg drop come crashing down. Bleu was left with only $175,000 of (his)(her) $700,00 investment in the three stocks in question. Even the $50,000 invested in utilities plummeted down to below half their initial value. Who's to blame? To no one's surprise Bleue and Hughes have different understandings of what went wrong.

Bleue alleges that Hughes defrauded (her)(her) of (her) (his)money by inappropriately encouraging (her)(him) to invest the money in a series of high-risk investments and not doing enough to discourage (his)(her) naive ideas. Yes, Bleue accepted the investments, but Bleue asserts that (s)he did not understand the risks (s)he was taking. Hughes defends that a combination of Bleue's manic investing zeal and our devastating economic downturn contributed to Bleue's unfortunate losses.

Both report that between November 2007 and December 2008, Hughes spoke with Bleue monthly to review Bleue's portfolio. Again, they have different understandings of what was discussed during those calls. Hughes reports that even though (s)he repeatedly advised a more conservative approach to investing, Bleue kept ignoring these recommendations. Even when Hughes advised Bleue that all the financial wizards were warning, "Get out, cut your losses," Bleue refused to heed the warnings. The state-

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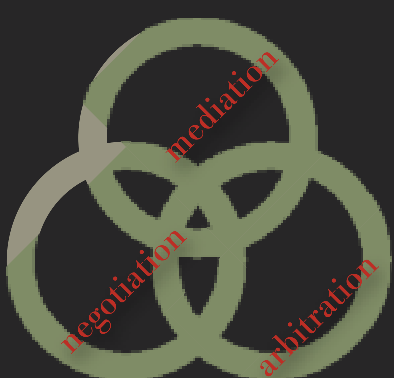

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ment delineates that in addition to the purchase and sale of the three stocks in question, there are six trades to buy and sell the $50,000 invested in utilities and bonds during the November 2007and December 2008. The statement also indicates that Bleue authorized each transaction. Bleue denies insisting on keeping the risky investments and questions if Hughes wasn't just trying to earn extra commissions with those six trades. After all, this was a commission-based account in which Hughes earned 2% commission of each transaction. Hughes defends that (s)he was just trying to monitor Bleue's investments during an increasing volatile market.

In January 2009, Bleue filed a statement of claim, executed a submission agreement, notified FINRA, and the parties signed the submission agreement within FINRA's required time limits. Complaints and Responses have all been drafted in a timely fashion.

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Private Facts for Broker Hughes

I can't believe another one is coming out of the woodwork, looking for a scapegoat for their bad decisions in a devastating economy. Yes, you suggested a balanced portfolio for Bleue, including some investments of moderate risk and some mutual funds. Yes, you invested $700,000 of Bleue's money in Serious, Inc., Ripp Enterprise and Big Car Co., but only after Bleue pushed these three stocks, believing they were potential pots of gold at the end of the rainbow. Of course during your initial meeting with Bleue you asked Bleue to name any stocks (s)he was interested in investing in. Of course you told Bleue that these investments were very risky. And yes, you made six trades on Bleue's account between November 2007 and December 2008, because you were monitoring Bleue's investments during a volatile time. That's definitely not churning; that's doing your job.

You conducted your interview with Bleue according to the book. You asked about income, financial history and risk. As Bleue talked, you completed the customer agreements and profile forms based on the information Bleue had given you. This is a practice you follow so that customers don't have to be burdened filling out those onerous forms. When you asked Bleue what Bleue's annual income was, Bleue said forty-eight. After Bleue's talk about (his)(her) money, you assumed Bleue meant $480,000 and wrote that down. Bleue looked over the forms and signed them without a question. You did everything right. What more should you have done?

You have four disciplinary writes ups on the question of suitability and churning. All of those were settled. Two settled in the amount of $10,000, one settled for $20,000 and one settled for $75,000. You would prefer not to have another mark on his reputation. Your lawyer reassures you that this is just the cost of doing business and for the most part, your record show just that, nothing more. Your lawyer explained that all these reporting obligations that require there to be a public record of all complaints made against brokers have had a different impact than intended. Instead of raising red flags about a particular broker, because there are so many complaints against brokers, the reporting obligation is showing that complaints are an unavoidable result of being an active broker.

If possible, you want to settle this case for as little as possible, because you did nothing wrong. You are a stockbroker, not an insurer of investments. Yet, you do have a big heart and are sorry that Bleue or any customer looses money. However, unless new information comes out that is relevant to your culpability, you do not want to pay significant ransom.

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Round One: Negotiation

Proceed with the facts as written.

Round Two: Mediation

For this round assume all the information that is included in the fact pattern, private facts, Statement of Claim, as well as the following:

Negotiations were not successful because several impasses could not be overcome. Hughes was unable to listen to you. Furthermore, you are offended by the attitudes of Hughes and Hughes' counsel during the negotiations. How could they be so self-righteous about their conduct when you have been so wronged? How could any human being act so insensitive to your plight? Not even an apology! You want to make sure this doesn't happen to others like you.

Arbitration:

The issue to be arbitrated is whether the three stocks at issue: Serious, Inc., Big Car and Ripp. Co were suitable investments for Bleue?

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FINRA DISPUTE RESOLUTION, INC.

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In the Matter of the Arbitration Between:	
SKY BLEUE,	FINRA Case No. 123456789
Claimant,	
vs.	Statement of Claim
ROBIN HUGHES Respondents.	

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This Statement of Claim is brought by Claimant Bleue to recover $525,000 in securities investment losses incurred from the three stocks in question between November 7, 2007 and December 11, 2008 and $525,000 in punitive damages. Bleue was a novice investor who, upon the advice and guidance of Respondent Hughes, purchased and retained what were not known by Bleue to be an extremely speculative and wholly unsuitable combination of securities. At various intervals, Hughes, despite a collapsing market, urged Bleue to retain said securities. None of this would have occurred but for the failure of Respondent Champion Investment Corp. ("CIC") , a member of the New Stock Exchange, to supervise Hughes as required by law.

The $750,000 invested by Hughes were virtually (her)(his) entire holdings. (S)he had no retirement funds. Bleue, then age 55, earned a modest $48,000 annual income from her small business. (S)he was a single mother (father) of an 18-year-old son who had just gone off to college. All this information was provided to, and known by Respondents.

Despite customer's modest circumstances and needs, and (her) (his) lack of retirement savings, (s)he made the following stock purchases on November 7, 2007, all with broker's encouragement, advice and approval:

- 40 thousand shares of Serious, Inc. at $5 per share. A startup radio satellite operation listed only in the "Pinksheets," Serious went into bankruptcy and became worthless
- 10 thousand shares of Big Car Co. (NYSE). Big Car shares had dropped from $60 to $25 by the time of purchase, and were sold on December 11, 2008 at $10 per share.
- 25 thousand shares of Ripp Co., a mid-size investment firm on NASDAQ. These shares were purchased at $10 per share and sold on December 11, 2008 at $3 per share.

First Claim

Customer agreed to take no more than modest risk to seek growth. Her portfolio, however, was highly speculative, particularly in a turbulent, falling market. The sale of those securities to (her)(him) was fraudulent.

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Second Claim
Respondents also violated the New York Stock Exchange's "Know Your Customer Rule" in connection with the purchase and retention of the above securities in Claimant's account.

Third Claim
Respondents knew, and had reason to know, that Bleue was relying upon them for their investment advice. The advice provided, and the appropriate warnings withheld, were part of an ongoing reckless and highly negligent course of conduct.

Bleue accordingly seeks $525,000, the amount of (her)(his) losses, another $525,000 in punitive damages, together with all costs including attorneys' fees.

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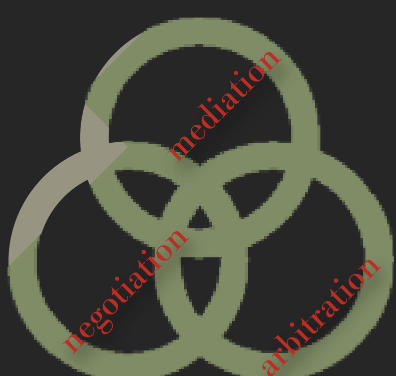

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FINRA DISPUTE RESOLUTION, INC.

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In the Matter of the Arbitration Between:	:	
	:	
SKY BLEUE,		FINRA Case No. 123456789
Claimant,	:	
	:	
vs.		Answer to Claim
	:	
	:	
ROBIN HUGHES	:	
Respondents.	:	
	:	
	:	
	:	
	:	

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Respondents deny liability to Claimant. whether for fraud, violation of any Know Your Customer Rule, or reckless/negligent advice. Bleue represented (herself)(himself) to have a $480,000 annual income sufficient for all of (her)(his) needs and those of (her)(his) son. (S)he firmly rejected advice to invest in mutual funds, and then rejected recommendations made to (her)(his) for a balanced portfolio of stock in established companies. The securities purchased were at (her)(his) insistence, and based on firmly held opinions and knowledge (s)he claimed to have based on her own knowledge and research. In addition, the overall stock markets dropped by half or more than half during the period in question. During this time, Claimant was warned that (her)(his) investments were particularly vulnerable.

Given the entirely baseless and frivolous nature of the claims asserted, Respondents seek all fees and costs, including attorneys" fees. Respondent Hughes will be asking the Panel for expungement as well.

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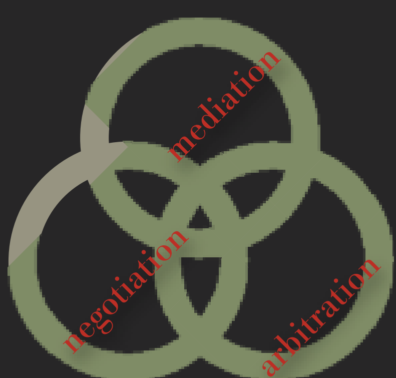

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A Personal Invitation

Dinner is on us.

So is the food for thought -
Expanding Your Wealth and Protecting Your Profits

August 1, 2007

Dear Sky Bleue:

Please join us on September 10 at 6:30 P.M. for dinner and a discussion at Rive Gauche, one of the finest new restaurants in our fair city. R. Hughes of Champion Investment Corporation will present this exclusive event. R. Hughes is recognized as one of the leading personal investment advisors and brokers in our region. There are no strings attached and nothing will be sold.

You'll learn:

- *How to generate guaranteed returns regardless of market conditions!*
- *How to never run out of money no matter how long you live, freeing you to generate an income much larger than you might imagine!*
- *How to earn up to a guaranteed 13% over the next twelve months*

"Most of my clients are approaching retirement or are already enjoying it.... I'm proud to say I have never lost One Dollar of my clients' money." R. Hughes

According to the SEC, $123 billion is already benefiting from this strategy nationwide. In just 60 minutes, you'll learn it all.

We hope you are able to take time out of your busy schedule and attend. You can't afford to miss this opportunity.

Guaranteed first year rate only.
This educational and investment presentation is for informational purposes.

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Private Facts for Bleue

How did you get into this mess! In retrospect, life seemed so simple when you didn't have money. All you wanted to do was increase your wealth, not gamble it away.

You thought this investment industry was heavily regulated to safeguard inexperienced investors like you. Yet, you found the whole process so confusing and intimidating. During your initial meeting with Hughes, you wanted to make a good impression and didn't want to appear a neophyte. You also wanted to invest your money in something more exciting than mutual funds. After all, safe and boring does not fit in with your image. You also wanted to show Hughes you were serious about making money. You had heard on a talk show about investing strategies that brokers save their best investments for their serious customers. You wanted to show Hughes you were serious about making real money. When Hughes asked if there were any particular stocks you were interested in, the first stocks that came to your mind were Serious, Inc., Big Car Co and Ripp Enterprise, Inc. Yes, you did say, ".....I have seen that Serious is negotiating with Bono to be a weekly host. I know the U.S. will not let a big car company get into serious trouble, and I knew CEO Ripp in college and he was a genius." You only wanted to show Hughes you knew something, not to shut off Hughes' advice. And, yes you said your income was forty-eight when he asked your annual income, but didn't check to see if he wrote down the correct amount. After all, the tax returns you brought to the meeting showed you only earned $48,000 that year. Why didn't Hughes ask to see them? Hughes filled out the account agreement forms and customer profiles while you were meeting. Yes, you signed the agreements, but you barely read them and didn't understand what you were signing.

When it rains, it pours. Not only did you lose all this needed money, but also the Huntington's Chorea that you were diagnosed with five years ago is getting worse. Has that in anyway contributed to your confusion about this whole investment debacle? Anyhow, shouldn't Hughes have an obligation to make sure that you had capacity to give informed consent? Shouldn't Hughes have asked more questions about your health? True, fifty-five is relatively young and you look very fit, but isn't the financial industry supposed to safeguard all investors, including investors like you? Didn't he get that is why you kept saying that your time was running out? Besides, your statements show that there were six trades on your account between November 2007 and December 2008. Just another example of how Hughes was trying to make (herself)(himself) money at your expense. Your misfortune must be a lesson to protect future investors, especially all those baby boomers suffering with debilitating, chronic diseases!

Your lawyer tells you that your case has very sympathetic facts. However, it is less clear if you have a good legal case. You understand that your broker had four previous complaints against (her)(him) that all settled; one for $75,000, another for $20,000 and two settled for $10,000 each. Isn't that proof that your broker is of questionable character? You also understand that during the time period you are questioning the suitability of the investments, the market tanked. Yet, not every stock went down. If only you had a broker who protected you and had done a better job safeguarding your money …