

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Halina & Wojciech Winkler Claimants

vs.

Southmark Financial Services, Inc. Respondent

AWARD

CASE NO. 87-01948

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on October 15, 1987 against Financial Network Investment Corporation ("FNIC"). Claimants amended their claim in January, 1989 and named Southmark Financial Services, Inc. as a Respondent in place of FNIC.

Claimants alleged that the various limited partnership investments recommended by Respondent were unsuitable to Claimants' stated investment goals and objectives as well as their financial situation and needs.

Respondent denied the allegations and maintained the investments were suitable and that the broker had a reasonable basis for making the investment recommendations in question.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages, as amended, in the amount of \$90,134.00, costs, attorneys' fees of \$9,115.82, interest at 10% and punitive damages of treble actual damages awarded.

Respondent requested dismissal of the claim.

DAMAGES AND RELIEF AWARDED

On March 15, 1990 and May 24, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on January 26, 1989 and by Respondent on February 7, 1989. The hearing was conducted in San Francisco, California and lasted two sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent's Third-Party Claims filed on May 10, 1990 against Edwin Michael Lickiss and Financial Network Investment Corporation are

dismissed without prejudice as untimely pursuant to Sections 25 and 39 of the Code of Arbitration Procedure.

2. Respondent Southmark Financial Services, Inc. is hereby liable for and shall pay to Claimants the sum of Fifty-Three Thousand, One Hundred Dollars and Zero Cents (\$53,100.00) calculated as actual damages in the amount of \$30,000.00 and interest in the amount of \$23,100.00.

3. All other claims are dismissed.

4. The parties shall each bear their respective costs including attorneys' fees.

5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimants. Respondent is hereby assessed the sum of \$500.00 representing the filing fee and shall reimburse Claimants directly.

OTHER ISSUES

On May 14, 1990, the Securities Investors Protection Corporation ("SIPC") filed a complaint against Respondent Southmark Financial Services, Inc. in the United States District Court for the Northern District of Texas which acted to stay the present action by operation of law. On May 24, 1990, the parties and arbitrators were advised verbally by the Respondent's Deputy General Counsel that the District Court had dismissed the SIPC complaint thereby lifting the stay.

PRESIDING ARBITRATORS

DATE SERVED: 06/08/90

Rita H. Schuman

Paul F. Faberman

William M. Friede

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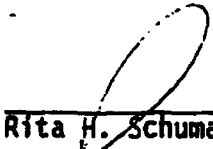
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