

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

|  |   |                |
|--|---|----------------|
| In the Matter of the Arbitration Between | ) |                |
| Raymond and Edith Mayer,                 | ) |                |
|  | ) |                |
| Claimant,                                | ) |                |
| vs.                                      | ) | Case #88-01053 |
|  | ) | Award          |
| Raymond, James & Associates and          | ) |                |
| Philip H. Muehleck,                      | ) |                |
| Respondent.                              | ) |                |

Heard before the members of the Arbitration Panel:

Mr. Andrew Fellios

CASE SUMMARY

This claim was filed with the NASD, Inc. on April 4, 1988. The hearing was conducted on July 18, 1989 in Tampa, Florida, with a total of two (2) sessions.

Claimants, Raymond and Edith Mayer ("the Mayers") alleged that Respondents, Raymond, James and Associates ("RJ") and Philip H. Muehleck ("Muehleck") violated the NASD's suitability rule and Florida Statute Section 517.161 by selling the Mayers units in oil partnerships which were unsuitable. Respondents alleged that Claimants were aware of all the risks; received prospectuses; informed Respondents that they met the suitability guidelines set forth in the prospectuses; failed to exercise due diligence; failed to mitigate their damages; have exceeded the statute of limitations; repudiated the representations and warranties in the subscription agreements; asserted that any damages were not proximately caused by Respondents and that Respondents otherwise met their fiduciary duties.

RELIEF REQUESTED

Claimants requested damages of Ten Thousand and 00/100 (\$10,000.00) Dollars plus interest; a refund of their deposit with the NASD and other costs. Respondents requested dismissal of claim and attorney's fees pursuant to Florida Statute Sections 57.105 and 517.301.

## AWARD

On July 18, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on March 29, 1988, by Respondent, R.J. on June 21, 1988 and by Respondent Muehleck on June 8, 1988. 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. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondents are not liable to the Claimants and, therefore, all claims against them are dismissed.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the Arbitrators have assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars (\$200 x 2 sessions). The Claimants are assessed forum fees in the amount of Two Hundred and 00/100 (\$200.00) Dollars and the Respondents are assessed forum fees in the amount of Two Hundred and 00/100 (\$200.00) Dollars payable to the NASD, Inc. The National Association of Securities Dealers, Inc. shall retain the Two Hundred and 00/100 (\$200.00) Dollar filing fee previously deposited by the Claimant in full satisfaction of their portion of these forum fees.
4. Respondents' request for attorney's fees is dismissed in all respects.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

## OTHER ISSUES

None.

## ARBITRATORS CONCURRING

George S. Coit Jr. Esq.  
Paul Sidney Elliott, Esq.  
Andrew Fellios

Dated: August 4, 1989

## AWARD

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## OTHER ISSUES

None.

## ARBITRATORS CONCURRING

Andrew Fellios

Dated: August 4, 1989