

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
Harold R. Fox,)
) Claimant.)
) Case #88-03014
vs.) Award
)
Easter Kramer Group Securities, Inc.)
Charles R. Hilbun,)
) Respondents.)
)

Heard before the members of the Arbitration Panel:

Bruce J. Berman, Esq.
Mr. Frank J. McCormack
Mr. Jack Harris

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 26, 1988. The hearing was conducted in Fort Lauderdale, Florida on October 17, 1989 with a total of two (2) sessions.

The Claimant, Harold Fox ("Fox") alleged that Respondents, Easter Kramer Group Securities, Inc. (Easter Kramer") and Charles Hilbun were liable for damages sustained by: Respondents' failure to inform Claimant of a price break and letter of intent which he was entitled to; failure to provide Claimant with a switch letter that would have advised him that he would have to pay a further commission when he switched the funds and failure to inform Claimant of the disadvantages of buying different families of funds. Also, Claimant alleged: that the second switch was into an unsuitable fund and that Respondents were liable for fraud and negligence. Respondents asserted the affirmative defenses of: good faith; waiver; estoppel; laches and lack of proximate cause. Additionally, Respondents alleged that: Claimant had failed to set forth allegations to support an award of punitive damages; Hilbun acted in compliance with all applicable rules and regulations; Respondents were not negligent or reckless and Claimant never informed Respondents that he would be investing over \$100,000.00 which would have entitled him to the price break.

RELIEF REQUESTED

Claimant requested damages in the amount of approximately Forty Thousand and 00/100 (\$40,000.00) Dollars plus interest and punitive damages. Respondents requested dismissal of the claim and costs.

5. Respondent, Easter Kramer is hereby liable and shall pay to the Claimant the further amount of Three Thousand Five Hundred Fifty-Six and 26/100 (\$3,556.26) Dollars inclusive of interest at the legal rate of 12% per annum.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (\$400 x 2 sessions). Claimant is hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars and Respondents are hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars for which they shall be jointly and severally liable. The NASD, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimant with the NASD, Inc. in full satisfaction of Claimants share of such forum fees.
7. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Bruce J. Berman, Esq.
Mr. Frank J. McCormack
Mr. Jack Harris

Dated: November 2, 1989