

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
SALLY ROJAS,)
Claimant,)
vs.) Case #88-03086
Award
PROFILE INVESTMENTS, CORP.,)
ALAN BESHANY, ALVIN ROSENBLUM,)
STANLEY LEVIN, MICHAEL SEGAL and)
GREGORY MARHOLIN.)
Respondent)

Heard before the members of the Arbitration Panel:

Bruce J. Berman, Esq.
Mr. Leonard E. Pacun
Mr. Samson Silberman

CASE SUMAMRY

This claim was filed with the NASD, Inc. on October 4, 1988. The hearing was conducted in Fort Lauderdale, Florida on January 22nd and 26th, 1990, April 24, 1990 and May 23, 1990, with a total of seven (7) hearing sessions and one prehearing conference session).

Claimant, Sally Rojas ("Rojas"), alleged that Respondents, Profile Investments Corp. ("Profile"), Alan Beshany ("Beshany"), Stanley Levin ("Levin"), Michael Segal ("Segal") and Jeffrey Marholin a/k/a Gregory Marholin ("Marholin"), were liable for: violating Florida Statute Section 517.301; breach of fiduciary duty; fraud and deceit; and negligence. Additionally, Claimant alleged that Respondent, Alvin Rosenblum ("Rosenblum"), while with RLR Securities, Inc. ("RLR") was liable for negligent supervision and that Profile was also liable for negligent supervision.

Specifically, Claimant alleged that the Respondents, other than Rosenblum, by misrepresentations and omissions, induced Claimant into trading and selling options, bonds and stocks, while at RLR and Profile. Respondents, Rosenblum and Levin, worked only at RLR and the claims against them relate only to transactions which occurred with RLR. Claimant alleged that said transactions were contrary to her stated investment objectives.

Respondents, Beshany, Segal, and Profile, denied liability and failed to appear at the hearing. Respondent, Levin, denied liability and asserted the affirmative defenses of: failure to state a claim; laches; waiver; estoppel; good faith; that the transactions were conducted in accordance with all applicable rules and regulations; and that any damages must take into account Claimant's existing underlying portfolio.

Respondent, Rosenblum, alleged that he was unaware of any improprieties in the handling of the account; that the Respondents were properly supervised while at RLR; that Mr. Rojas controlled the Claimant's account pursuant to a power of attorney executed by Claimant; that there were no objections to the transactions until the Spring of 1987; and that Beshany oversold his own expertise.

Respondent, Marholin, also denied liability.

RELIEF REQUESTED

Claimant requested damages in the amount of \$200,000.00 plus interest, punitive damages, attorney's fees and other costs. Respondents, Beshany, Segal, Marholin and Profile, requested dismissal of the claim. Respondent, Levin, requested dismissal of the claim plus costs and attorney's fees and Respondent, Rosenblum, requested dismissal of the claim.

AWARD

On January 22nd and 26th, 1990, April 24th, 1990 and May 25th, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on September 20, 1988, and by Respondents, Profile and Beshany on December 22, 1989, Levin on March 13, 1989, Marholin on January 23, 1989, Rosenblum on January 22, 1990 and not signed by Respondent, Segal, as required pursuant to Section 12(a) of the NASD Code of Arbitration Procedure ("Code"). Respondent, Segal, being a person associated with an NASD, Inc. member firm, Profile Investments, Inc. at the time this controversy arose. 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. Claimant and Respondents, Levin, Rosenblum and Marholin, 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, these parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondents, Profile, Beshany and Segal, are hereby liable, jointly and severally, and shall pay to Claimant the amount of Twenty Six Thousand Four Hundred Eleven and 00/100 (\$26,411.00), inclusive of interest.
3. Respondents, Profile, Beshany and Segal, are hereby liable, jointly and severally, and shall pay to Claimant the further amount of Ten Thousand and 00/100 (\$10,000.00) Dollars as punitive damages.
4. Respondents, Profile, Beshany and Segal, are hereby liable, jointly and severally, and shall pay to Claimant the further amount of Five Thousand and 00/100 (\$5,000.00) Dollars for attorney's fees pursuant to Florida Statute Section 517.211.
5. Respondents, Profile, Beshany and Segal, are hereby liable, jointly and severally, and shall pay to Claimant the further amount of Five Hundred and 00/100 (\$500.00) Dollars for costs.

2. For the reasons set forth in the record of proceedings and contained in Arbitrator's Exhibit #1 and #2, this Panel finds service upon and adequate notice to Respondents, Segal, Beshany and Profile. The NASD, Inc. has made every attempt to locate and serve Respondents, Segal, Beshany and Profile, with Notice of this hearing as demonstrated by the evidence contained in Arbitrator's Exhibit #2.

ARBITRATORS CONCURRING

Bruce J. Berman, Esq.
Mr. Leonard E. Pacun
Mr. Samson Silberman

Dated: July 13, 1990