

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
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:
Anthony Coratti : AWARD
:
Claimant : #88-03147
vs. :
:
Nathan & Lewis Securities, Inc. :
Nathan, Lewis & Grant, Inc. :
Nathan & Lewis Associates, Inc. :
Ronald M. Allen :
Respondents :

Case Summary

Claimant Anthony Coratti (hereinafter "Claimant") alleged that he told Respondent Ronald M. Allen (hereinafter "Allen") that his (Claimant's) investment objectives were safety of principal and a higher rate of return. Claimant alleged that Allen made two representations concerning proposed annuities to the Claimant one, that the principal was guaranteed, and two, that Claimant would receive a higher rate of return on his investment. Claimant alleged that in reliance upon these representations that Claimant delivered securities from his fixed rate annuity portfolio to Respondents for the purpose of exchanging them for new annuities. Claimant alleged that he later discovered that the new annuities were at the risk of the market and that he suffered a loss of principal and interest. Claimant alleged that Respondents were negligent in their recommendation, that Respondents violated the NASD's "Suitability Rule", that Respondents breached their contract with Claimant, that they breached their fiduciary obligation owed to Claimant, that they deliberately defrauded Claimant and that the misrepresentations made to Claimant were material. Claimant further alleged that the conduct of Respondents amounted to common law fraud. Claimant alleged that the brokerage firms as the employer, principal and controlling person of Respondent Allen are responsible for Allen's actions.

Respondents categorically denied all allegations in Claimant's claim and maintained that the Claimant signed application forms acknowledging that he knew that the rate of return and the principal were not guaranteed. Respondents further maintained that Claimant made the investments in variable annuities not because of any misrepresentation, but because the Claimant wanted the potential for higher return offered by those investments and was willing to assume the necessary risk.

Relief Requested

Claimant requests compensatory damages in the amount of \$130,181.12, punitive damages in the amount of \$1,106,539.50 and prejudgment interest at the legal rate of 9% and costs and attorney's fees for this action. Respondents request that Claimant's claim be dismissed in all respects, and that Respondents be awarded their costs and attorney's fees in this arbitration.

Award

On October 18, 19 and 30, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Anthony Corratti on October 5, 1988 and by Respondents Nathan & Lewis Securities, Inc., f/k/a Nathan, Lewis & Grant, Inc. and Nathan & Lewis Associates, Inc. on November 29, 1988 and by Respondent Ronald M. Allen on December 1, 1988.

The initial claim was filed on October 12, 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 Claimant's claim for compensatory damages is denied in its entirety.
2. The Claimant's claim for punitive damages is denied in its entirety.
3. The parties shall each bear their respective costs including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, forum fees shall be equally assessed against the Claimant and the Respondents. Claimant is assessed forum fees in the amount of \$2,500.00, however, he is entitled to apply his filing fee to offset this fee such that the amount of \$1,500.00 is due from the Claimant as forum fees. Respondents are jointly and severally assessed forum fees of \$2,500.00. Forum fees shall be made payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

/s/
Constantine N. Katsoris

/s/
Harold Berman

/s/
Joseph E. DaGrosa