

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Christine Remsen

Claimant

vs.

Emillia Kato, Private Ledger Financial
Services, Inc. and Associated Planners
Securities Corporation

Respondents

AWARD

CASE #88-03298

SUMMARY OF ISSUES

This case was filed on October 24, 1988. Claimant Christine Remsen alleges that the Respondents Emilia Kato, Private Ledger Financial Services, Inc. and Associated Planners Securities Corporation recommended that Claimant invest \$10,000.00 each in two limited partnerships when such investments were not suitable, given Claimant's lack of sophistication regarding investments, financial needs, stated objectives, net worth, annual income and applicable tax liabilities based on her expected future income. One \$10,000.00 investment was completely lost due to the bankruptcy of the limited partnership in 1987 and 1988. The other investments remain illiquid for the indefinite future.

Claimant claims are based on violations of California and Federal securities law, fraud, breach of fiduciary duty, misrepresentation and excessive commissions.

Respondent, Private Ledger Financial Services, Inc., answering separately, states that Claimant received various disclosure documents relating to the partnership investments and was thereby made aware of the inherent risks involved. Private Ledger also states that the claim should be barred by waiver, estoppel, laches and ratification. Respondent also asserts contributory negligence, assumption of the risk and failure of the Claimant to mitigate damages.

Respondents Emilia Kato and Associated Financial Planners Securities Corporation, answering jointly, state that the Claimant was fully informed, both orally and through written disclosure statements of the risks and illiquidity of the partnership investments and that the Claimant met all the suitability requirements identified in each prospectus.

DAMAGES AND RELIEF REQUESTED

Claimant seeks to recover the initial investment of \$20,000.00 plus interest, punitive damages, attorneys' fees, costs, lost profits and damages for emotional distress.

Respondent Private Ledger seeks dismissal of the claim in its entirety plus costs and fees.

Respondents Emilia Kato and Associated Planners Securities Corporation seek dismissal of the claim.


DAMAGES AND RELIEF AWARDED

On September 27 and November 15, 1989 in Los Angeles, California the undersigned arbitrators heard the controversy in five sessions between the parties as set forth in submissions to arbitration signed by Claimant Christine Remsen on October 18, 1988 and by Respondent Emilia Kato and Associated Planners Securities Corporation on December 14, 1988 and by Private Ledger Financial Corporation on December 16, 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. Respondents Emilia Kato and Private Ledger Financial Corporation are jointly and severally liable and shall pay to Claimant Christine Remsen the sum of Thirty Thousand Five Hundred Forty Dollars and no cents (\$30,540.00).
2. All claims against Respondent Associated Planners Securities Corporation are dismissed.
3. Claimant shall convey to Emilia Kato and Private Ledger Financial Services all claims of right, title and interest to the McCombs and Consolidated Capital partnerships which were the subject to this arbitration.
4. Emilia Kato and Private Ledger Financial Services, Inc are jointly and severally assessed and shall pay to the National Association of Securities Dealers, Inc. the sum of \$1,600.00 in forum fees.
5. The parties shall each bear their respective costs including attorneys' fees.
6. Pursuant to Section 43 of the National Association of Securities Dealers, Inc ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant.

DATE SERVED: 12/19/89

ARBITRATORS CONCURRING



Aaron Fenton

John B. Wells

Joyce Levinson

Respondent Private Ledger seeks dismissal of the claim in its entirety plus costs and fees.

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