

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN :
 :
Helene Dollinger :
 :
 : Claimant : Case #88-03891
 :
vs. : AWARD
 :
 :
 :
Northeast Savings Bank and Invest :
 :
 : Respondents :

CASE SUMMARY

Claimant Helene Dollinger alleged that she told the representative of Respondent Invest that she wanted to purchase an IRA that was safe and suitable for her needs. Claimant alleged that the representative of the Respondent Invest recommended a limited partnership, namely the McNeil Real Estate Limited Partnership. Claimant alleged that she purchased this investment based on the recommendation of the Respondent. Claimant further alleged that this investment was very risky and unsuitable for her investment objectives. Moreover, as the investment decreased in value, the Claimant alleged that she requested the Respondent to sell her position and that such sale was never executed.

Respondent Invest maintained that pursuant to the Claimant's new account form she was suitable for the investment, and that before the purchase of the investment the Claimant was provided with a prospectus and other reading materials which outlined the risks involved with the investment. Respondent contended that they always acted properly and that the Claimant authorized the purchase of the investment with an understanding of the risks involved. Moreover, the Respondent contended that they offered the Claimant the opportunity to liquidate her position, and that she declined this offer.

RELIEF REQUESTED

Claimant Helene Dollinger requested actual damages of \$2,000.00, plus interest. Respondent Invest requested dismissal of the Statement of Claim in its entirety.

AWARD

In January 24, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Helene Dollinger on December 20, 1988, and by Respondent Invest on April 26, 1989 and not signed by Respondent Northeast Savings Bank. The

hearing was held at the offices of Patrick J. Mackrell, Esq. in Albany, New York and consisted of one (1) hearing session.

1. In accordance with Section 25 of the NASD's Code of Arbitration Procedure, the Respondent Northeast Savings Bank was served with the Statement of Claim and given an opportunity to respond. Respondent Northeast Savings Bank failed to respond or otherwise submit to the jurisdiction of the National Association of Securities Dealers, Inc.
2. In accordance with Sections 21 and 26 of the NASD's Code of Arbitration Procedure, Respondent Northeast Savings Bank was given due notice of the hearing procedure by regular and certified mail.
3. The arbitrator determined, however, that in light of the fact that the Respondent Northeast Savings Bank is not a member of the NASD, had not submitted a properly executed submission agreement, and that he was not aware of any contract or agreement compelling the Respondent to commit to arbitration, there existed no jurisdiction over Respondent Northeast Savings Bank. Therefore, all claims against Respondent Northeast Savings Bank be and hereby are dismissed in their entirety, without prejudice.
4. Respondent Invest be and hereby is liable and shall pay to the Claimant the sum of One Thousand Four Hundred and Ninety Six Dollars and No Cents (\$1,496.00), inclusive of interest.
5. The parties each shall bear their respective costs including attorney's fees.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$25.00 filing fee previously deposited by the Claimant as costs of the one hearing session conducted in this matter, and Respondent Invest be and hereby is liable and shall pay to the Claimant the sum of Twenty-Five Dollars and No Cents (\$25.00) to offset this fee.

CONCURRING ARBITRATOR



PATRICK J. MACKRELL

. DATED: March 6th, 1990