

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
: Janet A. Habas :
: Claimant : AWARD
: #89-00928
: vs. :
: First Jersey Securities, Inc. :
: and :
: Donald Ray Hayes Respondents :
: -----

Case Summary

Claimant, Janet A. Habas ("Claimant") alleged that Respondent First Jersey Securities ("First Jersey") and Respondent Donald Ray Hayes ("Hayes") placed Claimant in unsuitable and highly speculative investments. Claimant alleged that she made it clear to Hayes that she had a limited source of income with no potential for growth and that she had a disability that did not allow her to have another job. Claimant alleged that she told Hayes that she wanted to invest in solid, profitable companies with good futures. Claimant alleged that Hayes made material misrepresentations to her in order to induce her into investing in International Thoroughbred Breeders, Inc. ("ITB"). Claimant alleged that although Hayes discussed ITB with her, the initial purchase of ITB was done without Claimant's approval.

Claimant alleged that First Jersey failed to supervise the actions of its agent and that both Respondents violated the NASD Rules of Fair Practice and Procedures. Claimant alleged that Respondents fraudulently concealed relevant facts from the Claimant.

Respondents maintained that Claimant and Hayes reviewed together Claimants goals and objectives and that each investment was fully discussed with Claimant and that Claimant made the decision of whether to purchase ITB. Respondents maintained that the investment was suitable and in keeping with her stated investment objective. Respondents maintained that all disclosure materials were sent and received by Claimant. Respondents maintained that Claimant authorized all purchases of ITB. Respondents maintained that Claimant was an experienced investor with accounts at several brokerage firms. Respondents maintained that they properly handled the Claimant's account and are not responsible for Claimant's losses.

Relief Requested

Claimant requested compensatory damages in the amount of \$19,623.51 for the ITB stock Claimant purchased from Respondents and for \$17,500.89 for ITB securities purchased by Charles Schwab for total compensatory damages of \$37,124.40. Claimant requested \$1,655.86 for margin interest charges incurred at Claimant's Charles Schwab account. Claimant requested interest, closing costs and administrative expenses incurred in an amount in excess of \$10,544.92. Claimant requested that Respondents disgorge all profits, markups and other benefits received by Respondents. Claimant requested punitive damage in an amount of at least \$110,000.00, interest at 7% from the date the First Jersey account was opened, attorneys' fees and costs.

Respondents request that Claimant's claim be dismissed in its entirety and that all costs be assessed against the Claimant.

Award

On April 4 and June 1, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant on March 16, 1989 and by the Respondent First Jersey on May 8, 1989 and by Respondent Hayes on May 3, 1989. The hearing was held in Atlanta, GA and consisted of 4 sessions. 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. Claimant shall be awarded the sum of \$9,811.00 as compensatory damages against Respondents First Jersey Securities and Ronald Ray Hayes jointly and severally.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$750.00 filing fee previously deposited by the claimant.
4. Respondents are assessed forum fees in the amount of \$3,000.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

/s/

Ellwood F. Oakley III

/s/

Robert H. Putnam Jr.

/s/

David S. Saylor

Dated: July 6, 1990

5. Respondent/Claimant ^{are} ~~is~~ assessed forum fees in the amount of \$3,000.00 payable to the NASD, Inc. through its staff counsel/~~administrator~~ in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING

Edward J. Hartman III
David S. Taylor

ARBITRATORS DISSENTING
(if any)

