

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between

Philip N. Chance
Dorothy J. Chance

Claimants

vs.

Frank M. Schwartz

Respondent

Award

NASD No. 89-01020

SUMMARY OF ISSUES

This claim was filed on April 3, 1989. Claimant alleged lack of suitability in the purchase of August Income/Growth Fund, August Properties Fund II and Landsing Institutional Properties V.

Respondent denied claimants' allegations and asserted the following affirmative defenses: failure to state a claim for negligence, breach of fiduciary duty, misrepresentation or any actionable wrong, no violation of any statute, rule or regulation, claimants must assume responsibility for their own informed investment decisions, any losses were caused by factors impacting the economy, which were unknown to respondent at the time made and outside respondent's control, unclean hands, assumption of risk and claims barred by statutes of limitation, specifically California Code of Civil Procedure Sections 337, 338, 339, 340, 340.6 and 343.

DAMAGES AND RELIEF REQUESTED

Claimants requested the following:

1. Compensatory damages of \$60,000.00.
2. Interest at the rate of eight (8) percent from June 1, 1983 to December 31, 1988.
3. Interest at the rate of eight (8) percent compounded from January 1, 1989 to date award is paid.
4. Costs of arbitration.


DAMAGES AND RELIEF AWARDED

On February 7, 1990 in San Francisco, California, the undersigned arbitrators heard the controversy in three sessions between the parties as set forth in submissions to arbitration signed by Claimants on March 30, 1989. Respondent submitted orally at the arbitration to the jurisdiction of the National Association of Securities Dealers, Inc. (NASD) and represented he would forward a written submission agreement. 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. Each and every claim is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrator.
4. Also in accordance with Section 43, the arbitrators assess forum fees of \$500.00 against Respondent, payable to the NASD.

ARBITRATORS CONCURRING

DATE SERVED: 03/16/90


Francis O. Spalding

Allan Blau

David H. Brazil

DAMAGES AND RELIEF AWARDED

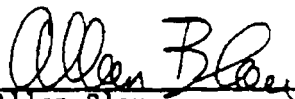
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