

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Joan Wilson

Claimant

vs.

Case #89-01531
Award

Robert G. Fietz and American General-Securities, Inc.

Respondents

CASE SUMMARY

Claimant, Joan Wilson ("JW"), alleged Respondent, Robert G. Fietz ("RGF") recommended an unsuitable investment in Commercial Management Services ("CMS"), personally guaranteed Claimant's principal, stated there was very little risk in the investment, and averred it was not unsafe to invest a person's entire life savings in one investment. Claimant further alleged Respondent, American General-Securities, Inc. ("AGSI"), failed to properly supervise RGF.

Respondent, RGF, maintained Claimant did not state a claim eligible for arbitration under the NASD. RGF denied any malfeasance, misuse of funds, or failure to account for these funds. RGF averred JW was a sophisticated investor and was fully advised of the nature of the transaction.

Respondent, AGSI, denied Claimant purchased any interest in CMS from or through AGSI, or that RGF acted on behalf of AGSI when he solicited or sold any CMS offerings or that AGSI is responsible for any action, omission or losses resulting from any solicitation or sale by RGF prior to his association with AGSI or during his association with AGSI made or done without the knowledge or consent of AGSI. Finally, AGSI crossclaimed against RGF for any and all resulting damages awarded to JW.

RELIEF REQUESTED

Claimant, JW, requested actual damages in the amount of \$58,775.73 plus interest, costs and damages for emotional distress.

Respondent, RGF, requested Claimant's claim be dismissed with prejudice.

Respondent, AGSI, requested it be dismissed from this proceeding with prejudice and crossclaimed against RGF for any and all resulting damages awarded to JW.

AWARD

On November 14, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, JW, on May 19, 1989 and by the Respondent, AGSI, on July 5, 1989 and not by Respondent, RGF, as required by the NASD's Code of Arbitration Procedure. The hearing was held in Boston, MA at the NASD, Inc. and consisted of three (3) 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. Pursuant to the by-laws of the NASD, Inc. it was determined that Respondent, RGF, was required to submit to this arbitration and, therefore, is bound by this panel's rulings and determinations;
2. The Claimant, JW, and Respondent, RGF, stipulated that in settlement of the claims set forth in Claimant's statement of claim for the sums of \$2,392.65 and \$2,983.08, plus interest from August 8, 1985 and April 12, 1984 respectively, the Respondent, RGF, will pay to the Claimant as full satisfaction of such claim the amount of \$8,750.00;
3. The Claimant, JW, is awarded \$50,000.00 plus \$6,000.00 in interest for which the Respondents, AGSI and RGF, are jointly responsible on the condition that Claimant assigns all her claims in the CMS bankruptcy proceeding to the Respondents in accordance with the proportion in which the two (2) Respondents pay the award made hereby to the Claimant;
4. Regarding the crossclaim of AGSI against RGF, AGSI is awarded an amount equal to eighty percent (80%) of any amount AGSI pays in satisfaction of the award made hereby to the Claimant net of its share of any distribution received as a result to the assignment to it by the Claimant of her CMS claim in the bankruptcy proceeding;
5. All other claims are denied;
6. The parties shall each bear their respective costs, including attorneys' fees;
7. Pursuant to Section 43,44 or 45 the NASD, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant;

8. Claimant, JW, is assessed forum fees in the amount of \$1,000.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43, 44 or 45 of the Code of Arbitration Procedure.

ARBITRATOR SIGNATURES

 /s/
Ronald L. Cheney

 /s/
Victor Brudney

 /s/
Irwin M. Chase

November 14, 1990