

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
IRVING R. and MILDRED NOVACK,)
)
) Claimants,)
) Case #89-01547
vs.) Award
)
COMM VEST SECURITIES, INC.,)
)
) Respondent.)
)

Heard before the members of the Arbitration Panel:

Arnold Y. Steinberg, Esq.
Arnold Sarrow
Joseph M. Luby

CASE SUMMARY

This claim was filed with the NASD, Inc. on May 26, 1989. The hearing was conducted in Fort Lauderdale, Florida on February 13, 1990 with a total of one (1) session.

Claimants, Irving R. and Mildred Novack ("Novacks"), alleged that Respondent, CommVest Securities, Inc. ("CommVest"), recommended the purchase of Putnam High Income Government Trust as a "no risk" safe investment, to preserve principal, earn 12% interest and quarterly dividend checks; that through its broker, Richard McCarthy, CommVest made misrepresentations of material facts and omitted to state material facts; and, used high pressure to sell Claimants on unsuitable investment.

Respondent denied all allegations of wrongdoing; alleged that it fully and truthfully advised the Claimants about the Putnam investment from the Putnam documents; that the investment appeared to be suitable in providing a stable income for retirees; that Putnam's own mismanagement may have caused the demise of the fund; that Claimants are not novice investors and made a voluntary and informed purchase of the fund at issue.

RELIEF REQUESTED

Claimants requested damages in the amount of \$50,000.00 for the value their investment would have been worth today (principal plus interest). Respondent requested dismissal of the claim and an award in favor of CommVest.

AWARD

On February 13, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on May 23, 1989, and by Respondent on July 27, 1989. 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondent, CommVest, is hereby liable and shall pay to Claimants the amount of Eleven Thousand and 00/100 (\$11,000.00) Dollars inclusive of interest.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondent is hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars payable directly to the Claimants. The National Association of Securities Dealers, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimants.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorneys' fees.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Arnold Y. Steinberg Esq., Arnold Sarrow and Joseph M. Luby.

Received this 21st day of February 1990.