

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between/Among

Eastern Jewelry Manufacturing Company,  
Inc. and Witklag Reality

\*  
\* Case #89-01733  
Award

Claimants

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Advest, Inc.  
and  
Stuart Bockler

\*

Respondents

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CASE SUMMARY

Claimants, Eastern Jewelry Manufacturing Company and Witklag Reality ("Claimants") alleged that Respondent, Stuart Bockler placed claimants in unsuitable investments. Specifically, Claimants alleged that Bockler represented to Claimants that the investment strategy was safe and conservative and that the guaranteed maximum risk was 2% of the investment. Claimant alleged that Respondent Bockler deviated from the agreed upon investment strategy. Claimant alleged that Respondent Bockler trading was excessive in light of the Claimant's investment objective. Claimants alleged that Respondent Bockler and Advest breached the guarantees made to the Claimants. Respondent Advest maintained that the trading strategy employed for the Claimant while the account was at Advest was suitable. Respondent Advest maintained that there was no churning in Claimants' accounts and that the account, while it was at Advest, was properly handled. Respondent Advest further maintained that no complaints were made regarding the Claimants' account while the account was at Advest.

Respondent Bockler categorically denied each allegation and specifically maintained that at no time did he guarantee a maximum risk of two percent of the Claimants investment. Respondent Bockler maintained that at no time did he guarantee an 85% tax exclusion, that each transaction in Claimants account was discussed with the Claimant, that all risks were disclosed to the Claimants and that Claimants' account were not churned.

Respondent Bockler asserted acounterclaim against Eastern Jewelry and Witklag Reality for slander and defamation of character.

Claimants replied to Respondent Bockler's counterclaim and maintained that their claim is truthful and submitted in accordance with their rights to arbitrate any disputes arising out of the transactions in their accounts.

#### RELIEF REQUEST

Claimants requested damages in the amount of \$60,000.00, plus interest costs and reasonable attorneys' fees.

Respondent Advest requested that Claimant's claim be denied in its entirety and, that if Advest is found liable, that Respondent Bockler should be found liable to Advest for indemnification.

Respondent Bockler requested that Claimants' claim be dismissed in its entirety and that he be awarded damages on his counterclaim in the amount of \$200,000.00.

Claimants requested that the counterclaim be denied in all respects.

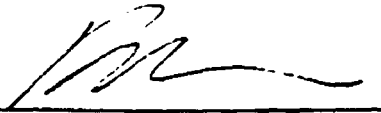
#### AWARD

On June 20, August 3, August 17, August 29, September 5, and October 15, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants, on May 17, 1989, and by the Respondent Advest, Inc. on August 8th, 1989 and by Respondent Stuart Bockler on August 23, 1989. The claim was filed on June 13, 1989. The hearing was held in New York City and consisted of 9 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. All claims against Respondent Advest, Inc. were dismissed by the panel on September 5, 1990.
2. Respondent Stuart Bockler is liable to Claimant Witklag Reality and shall pay to Claimant Witklag Reality the sum of FIVE THOUSAND NINE HUNDRED AND SEVENTY THREE AND 00/100 DOLLARS (\$5,973.00); inclusive of interest.
3. All other claims and counterclaims are dismissed.
4. The parties shall each bear their respective costs, including attorneys' fees;

5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimants.
6. Respondent Stuart Bockler is assessed forum fees in the amount \$3,000.00 and Respondent Advest, Inc. is assessed forum fees in the amount of \$1,500.00. Forum fees are payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING



Richard H. Rosenblum

Dated: December

5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimants.
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Richard H. Rosenblum

  
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Arnold L. Goren

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Theodore Kimmelman

Dated: \_\_\_\_\_, 1990

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Richard H. Rosenblum

Arnold L. Goren

Theodore Kimmelman  
Theodore Kimmelman

Dated: 12/13, 1990