

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Manner of the Arbitration Between

Name of Claimants

Donald and Dianne Mathewson

Case #89-02127

Name of Respondents

Johnston, Lemon & Company  
Winthrop Securities Company, Inc.

CASE SUMMARY

Claimants, Donald and Dianne Mathewson (hereinafter "Claimants") alleged that Respondents, Johnston, Lemon & Company (hereinafter "Johnston, Lemon") and Winthrop Securities Company, Inc. (hereinafter "Winthrop") recommended unsuitable investments to the Claimants. Claimants alleged that Respondents failed to diligently investigate the securities offered and that Winthrop failed to adequately supervise Johnston, Lemon and that Johnston, Lemon failed to adequately supervise its employees and agents and that Respondents failed to act in compliance with the rules of the New York Stock Exchange or the National Association of Securities Dealers, Inc.

Respondent, Johnston, Lemon maintained that Claimants received a full explanation of the nature and risks of Winthrop Growth Investors Limited Partnership (hereinafter "WGI") Johnston, Lemon maintained that this investment was consistent with Claimants investment objectives.

Respondent, Winthrop maintained that WGI was a suitable investment for the Claimants; and that the Claimants invested freely and with full knowledge. Winthrop maintained that the terms of WGI and its investment characteristics were fully described in the WGI prospectus and that the prospectus described the risks inherent in the investment. Winthrop maintained that the Claimants were, at all times, of the status of their investment.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$35,000.00, interest, exemplary damages, attorneys' fees and costs incurred in arbitration.

Respondent Johnston, Lemon requested that Claimants' claim be dismissed, that it be awarded costs, including reasonable attorneys' fees, incurred in defending against this claim.

Respondent Winthrop requested that Claimants' claim be dismissed.

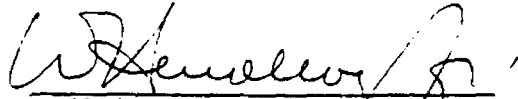
Both Johnston, Lemon and Winthrop requested that Claimants' claim be barred by the applicable statute of limitations and because the NASD rules do not give rise to a private cause of action. Claimant requested that Respondents request for dismissal be denied.

AWARD

On July 20, 1990, the undersigned arbitrators heard the controversy between parties as set forth in submissions to arbitration signed by the Claimants on July 5, 1989 and by the Respondent Winthrop Securities Company, Inc. on September 13, 1989 and by Respondent Johnston, Lemon and Company, Inc. on September 14, 1989. The hearing was held in Washington, DC and consisted of two 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. That Claimants request for damages is denied in all respects;
2. That Respondents motion to dismiss the Claimants' claim based on the statute of limitations and that NASD rules do not give rise to a private cause of action as alleged in the claim is denied;
3. That Claimants request for exemplary damages is denied in all respects;
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 \$400.00 filing fee previously deposited by the Claimant;
6. Respondents are equally assessed forum fees in the amount of \$400.00 each payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

Arbitrator Signatures

  
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William H. Malloy, Jr., Esq.

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Michael Fischetti

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Alexander Heckman

Arbitrator Signatures

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William H. Malloy, Jr., Esq.

*Michael Fischetti*

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Michael Fischetti

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Alexander Heckman

Arbitrator Signatures

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William H. Malloy, Jr., Esq.

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Michael Fischetti

*Alexander Heckman*  

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Alexander Heckman