

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

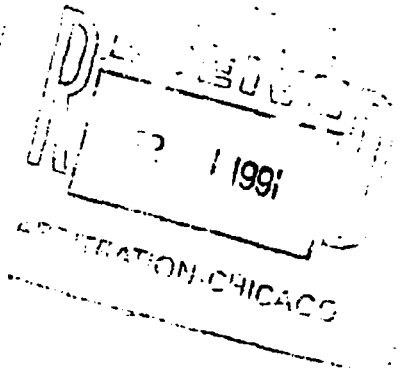
Name of Claimants

Mark A. & Pamela A. Sirianni

89-02335

Name of Respondent

Robert Shefik



FEB - 1 1991

RESTRICTED

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about August 21, 1989, Mark A. and Pamela A. Sirianni ("Claimants") alleged that Robert Shefik ("Respondent") made material misrepresentations in connection with the purchase and sale of securities in their account. The alleged misrepresentations include the following:

- a) all funds contributed to the account by Claimants would be invested conservatively and with an absolute minimum of risk.
- b) Drexel Burnham Lambert and Respondent were experienced, competent professionals who were deserving of Claimants' trust and confidence because they had Claimants' best interests at heart.
- c) the investment scheme perused on behalf of Claimants was suitable for and in accordance with their investment objectives.
- d) Claimants' principal would be as safe as it would be in a well-managed municipal bond portfolio.

Claimants also alleged that Respondent failed to disclose the following facts:

- a) trading in Claimant's account was excessive and designed to serve the interests of Respondent rather than the legitimate investment expectation of Claimants.
- b) the investment scheme pursued by Respondent jeopardized the Claimants' retirement and day-to day financial security.
- c) the transactions in Claimants' account were unsuitable for them and were inconsistent with their needs and expressed investment objectives.

Claimants alleged violations of the Colorado Securities Act, breach of fiduciary duty; negligence, and negligent supervision.

In the joint Answer filed with the NASD on or about November 10, 1989, Drexel Burnham Lambert, Inc. and Respondent denied each and every allegation of liability. Respondent stated that each and every transaction was authorized and that the recommendations made were consistent with the Claimants' investment objectives.

#### RELIEF REQUESTED

Claimants requested an award of actual basis in an amount in excess of \$23,000.00, the return they could have earned on the funds invested, costs, interest, and appropriate exemplary damages.

Respondent requested that the Statement of Claim be dismissed and that costs be assessed against Claimants.

#### OTHER ISSUES

Drexel Burnham Lambert Inc., an original Respondent in this proceeding has been dismissed without prejudice as a result of the automatic stay issued as a result of its filing for bankruptcy.

#### PROCEDURAL MATTERS

On Monday, March 18, 1991 in Denver, Colorado during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 18, 1989 by Claimants Mark A. and Pamela A. Sirianni.

Respondent Robert Shefik did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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.

#### AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Robert Shefik shall be and hereby is liable for and shall pay to the Claimants Mark A. and Pamela A. Sirianni the sum of Two Thousand Seven Hundred Twenty One Dollars and Forty Seven Cents (\$2721.47);

2. Interest at the rate of 8% per annum is awarded on the above stated sum from and inclusive of August 29, 1988 to and inclusive of March 18, 1991;
3. The panel in making its decision explicitly excludes Drexel Burnham Lambert, Incorporated from its determination of liability stated herein;
4. Each party shall bear its own costs and expenses incurred in this matter including attorneys' fees not specifically enumerated herein; and
5. Pursuant to Section 43c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$280.00 previously deposited with the NASD by the Claimants and Claimants shall also pay to the NASD the sum of \$120.00 as forum fees. Respondent shall pay to the NASD the sum of \$400.00 as forum fees.

Dated:

3/27/91  
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/S/ Thaddeus Teyar  
Presiding Chair  
/S/ Steven Mavrich, Esq.  
/S/ John T. Christensen  
Industry Arbitrator