

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
Suite 1680  
Three First National Plaza  
Chicago, IL 60602  
(312) 899-4440

In the Matter of the Arbitration Between

Lucille Janas

Claimant

89-02481

and

Michael L. Schwartz

Respondent

CASE SUMMARY

In a Statement of Claim filed with the NASD on or about September 6, 1989, Claimant Lucille Janas ("Janas") alleged that she purchased an unsuitable real estate limited partnership from Respondent Michael L. Schwartz ("Schwartz") and in connection with the purchase of this partnership, Schwartz made various misrepresentations to Janas. Janas alleged that Schwartz recommended the partnership as safe and riskless and did not advise her that the investment was illiquid or speculative. Janas further alleged that Schwartz breached his responsibility to Janas by placing her in such an investment. Janas further alleged that she had no prior investment history and did not meet the suitability standards required to make this type of investment.

In his Statement of Answer filed with the NASD on or about November 29, 1989, Schwartz alleged that he fully explained the risks and potential rewards of the investment to Janas on two occasions. Schwartz also alleged that Janas was fully informed that the partnership was illiquid and that based on her investment objectives the partnership was both a suitable and appropriate investment for Janas.

RELIEF REQUESTED

Janas sought rescission of her purchase and the return of her \$25,000.00 plus interest at 9% from April, 1984, a tender of the cash flow difference received from the investment to Respondent, costs of the proceeding, reasonable attorneys fees and punitive damages of \$25,000.00.

Schwartz requested dismissal of the claim.

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AWARD

On Thursday, August 23, 1990 in Chicago, Illinois during a hearing lasting one session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 25, 1989 by Claimant Lucille D. Janas and on March 8, 1990 by Respondent Michael Schwartz.

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. The claims asserted against Schwartz by Janas shall be and hereby are dismissed in their entirety;

2. The parties shall each bear their respective costs, expenses and attorney's fees incurred in this matter; and


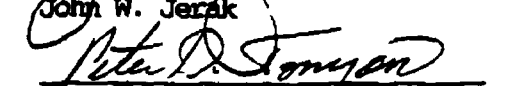
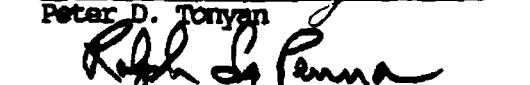
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the filing fee in the amount of \$400.00 previously deposited with the NASD by the Claimant Lucille Janas. Respondent Michael Schwartz is assessed and shall pay to the NASD as forum fees the sum of \$400.00.

By the panel:

August 23, 1990

August 23, 1990

August 23, 1990

  
John W. Jerzak  
  
Peter D. Tonyan  
  
Ralph LaPenna