

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Peter & Rosalyn Paul

90-00217

Name of Respondent(s)

Stifel, Nicholas & Co., Inc.  
I. M. Simon & Company  
Joseph Lantz  
Nancy Miller  
Rowland, Simon & Co.,

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Heard before:

Name	Public/Industry
_____	Public / Chair_
_____	Public_____
_____	Industry_____

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on January 18, 1990.

Claimants Peter Paul and Rosalyn Paul allege that Respondents Stifel, Nicholas & Company Inc., I. M. Simon & Company, Inc., Joseph Lantz, and Nancy Miller, caused unsuitable investments in mutual funds where their principal was put at risk. Claimants also allege that they were told that the funds paid all commissions when, in fact, said funds were "load" investments. Claimants further alleged that none of the investments made were suitable in light of the Claimants' investment objectives which were made known to the Respondents.

Respondents Joseph Lantz and Stifel, Nicolaus & Company, Inc., answering jointly assert that the majority of the investments made for the Claimants were made when their account was with I. M. Simon & Company Inc. and later with Rowland, Simon & Co. Therefore, as a matter of law, Respondents Stifel and Lantz cannot be held liable for any losses incurred as a result of trading conducted at the predecessor brokerages.

Respondent, Nancy Miller, by way of answer, states that the Claimants made each of the investment decisions for their accounts, that they did so after consultation, review of the prospectuses and consideration of investment alternatives. Miller also asserts that the Claimants were advised of the distinction between a "load" and "no Load" investment and that they made each of their investment decisions with full knowledge of the nature of the securities they were purchasing.

Rowland, Simon & Co. Inc, successor in interest to I. M. Simon & Company, Inc. did not answer but was represented at the hearing and stipulated to the jurisdiction of the NASD and the arbitration panel.

#### RELIEF REQUESTED

Claimants seek to recover damages of approximately \$50,000.00, interest at the rate of 9% per annum and reasonable attorneys' fees.

Respondents seek dismissal of the claim in its entirety plus costs.

#### AWARD

On January 15, 16, and 17, 1991, in Portland, Oregon, during a hearing lasting 6 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, Peter Paul and Rosalyn Paul on February 21, 1990 and signed by Charles W/ Schweizer on behalf of Respondent, Stifel, Nicolaus & Company, Inc. on May 1, 1990, by Respondent Joseph Lantz on May 1, 1990 and by Respondent Nancy L Miller on April 30, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Stifel, Nicolaus and Co, Inc., I. M. Simon & Company, Rowland, Simon and Co. Joseph Lantz, and Nancy Miller are jointly and severally liable and shall pay to Claimants Peter Paul and Rosalyn Paul the sum of Nine Thousand Two Hundred Dollars and No Cents. (\$9,200.00).
2. Claimants claim for interest is denied.
3. No forum fees are assessed.

4. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

In accordance with Section <43c/44c> of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant.

Signatures

\_\_\_\_\_

  
Gordon MacMillan

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Date of Decision: \_\_\_\_\_